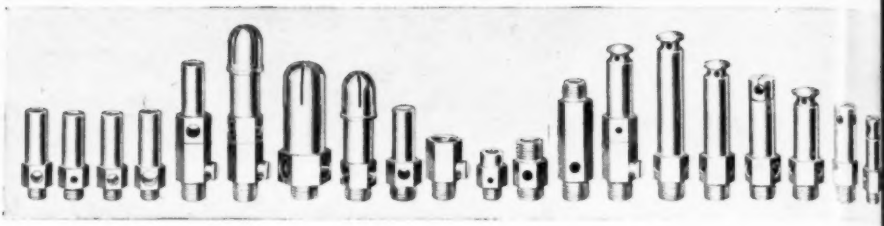
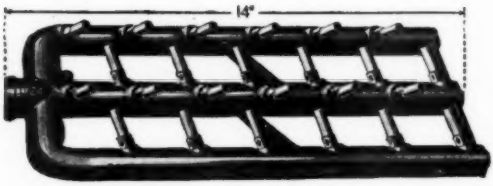
Public Utilities

FORTNIGHTLY

Volume XLVIII No. 7 September 27, 1951

Greetings to the American Transit Association Convention, Cincinnati, Ohio, October 1-5





Are You Making Conversions To Natural Gas?

We can be of help to gas companies and organizations specializing in the conversion work of changing over gas-burning equipment from manufactured to natural gas. We will supply the proper jets and controls to adapt the user's present Barber Burner to natural gas, or we will furnish Barber equipment to replace existing burners which cannot be adapted to natural gas. The famous Barber jets employ a combustion principle yielding extremely high efficiency. A wide variety of these jets is shown above, and a few typical burner units from our extensive line for all applications.

It is always best to use genuine Barber Burners and parts on your conversion work. They are easy to install, and Barber's 35-year record of quality products is a strong assurance of satisfactory performance. Our engineering department is at your service to help work out special problems in burner design.

Send for latest Catalog on Appliances and Conversion Burners and Controls.

THE BARBER GAS BURNER CO., 3682 Superior Avenue, Cleveland 14, Ohi

BARBER BURNERS

Public Utilities FORTNIGHTLY

VOLUME XLVIII SEPTEMBER 27, 1951 NUMBER 7

ARTICLES

FEATURE SECTIONS

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS
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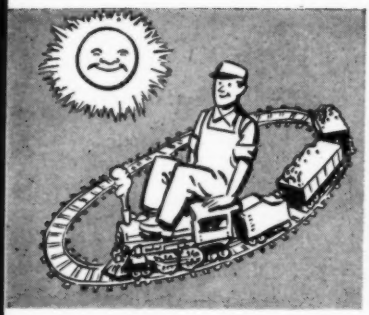
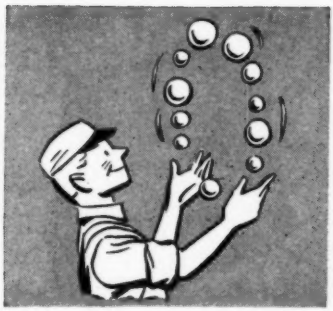
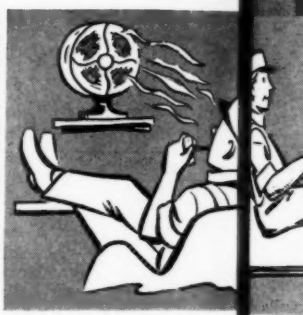
Address all communications concerning the FORTNIGHTLY *to the publishers at Munsey Building, Washington 4, D. C.*

LINE UP for low-cost steam with the B&W Type E Pulveriz

Five B&W Type E Pulverizers, serving a B&W R
Boiler of 800,000 lb. per hr. steam capacity







RECIRCULATING LOAD—DRIES AS IT GRINDS

Recirculation of fines within the mill gives repeated, quick-drying contact with large masses of heated air and metal . . . produces proper fineness at all loads, even with coal as wet as it can get. Fines are classified in the mill.

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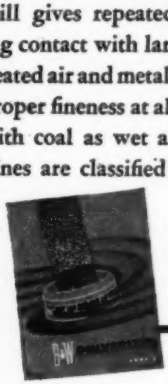
Balls and grinding rings wear together . . . assure uniform fineness regardless of attrition of the grinding elements . . . fineness automatically increases at reduced loads.

BLOWS CLEAN AIR-POI SAVES WEAR AND T EL-AIR

Unique in pressurized oper e accel the Type E Pulverizer re ile . . . a remarkably little mainte mixture of the primary fan, beca rate of blows only clean air . . . wide ra subject to the damaging suitab sion of entrained particles ombusti



New Bulletin G-57 illustrates and describes the design, construction, operating and maintenance features of the Type E Pulverizer. Write: The Babcock & Wilcox Company, 85 Liberty Street, New York 6, New York.

AIR-POINT VARIABLE ND FUEL-AIR CONTROL

operate accelerator on your au- er requ ile . . . assures proper coal- ainte mixture . . . produces de- becau rate of steam generation . . . i wide range with coal con- ging suitable for sustained ticles combustion efficiency.

LOW POWER CONSUMPTION

Ball-and-ring grinding, anti-friction bearings, pressure lubrication, and automatic rejection of ungrindable materials make possible high output with minimum power demand.

OUTSTANDING PERFORMANCE RECORD

Availability and maintenance economy beyond today's most exacting requirements are proved in over 1300 Type E Pulverizer installations.

g Industry Cut Steam Costs Since 1867

BABCOCK & WILCOX

G-50

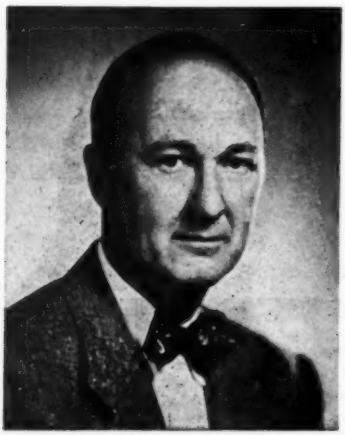
Pages with the Editors

For I dipt into the future, far as human eye could see,
Saw the Vision of the world, and all the wonder that would be;
Saw the heavens fill with commerce, argosies of magic sails,
Pilots of the purple twilight, dropping down with costly bales;
Heard the heavens fill with shouting, and there rain'd a ghastly dew
From the nations' airy navies grappling in the central blue.

THUS did Alfred Lord Tennyson, in his prophetic poem "Locksley Hall," foresee the operation of aerial commerce, which has become more or less commonplace in our present-day world. But the great English poet did not foresee (or, if he did, he was polite enough not to say anything about it) that the day would come when various forms of transport would have to fight for space to operate through the streets and countryside, under the streets, over the streets, and even through the air.

IF we wanted a prophecy on that, we might go back as far as the sixteenth century when the celebrated seeress, Mother Shipton, predicted "Carriages without horses shall go, and accidents fill the world with woe." If we could bring back the spirit of the good Mother Shipton to see for herself the rush hour along Wilshire Boulevard in Los Angeles, Lake Drive in Chicago, or almost any street in New York city, we would have good reason to say, "Mother Shipton, you were *so* right!"

ONE of the main problems, if not *the* main problem, which the delegates, members, and others attending the annual convention of the American Transit Association will consider is this basic physical problem of moving the masses in urban transit, in competition with other transport. As this issue is being distributed, the American Transit Association prepares for its annual convention, in the city of Cincinnati, October 1st to 4th. We salute these transit folks as among the most conscientious, hard-working people in the field of public service. We hope that they will bring away from their meeting in Cincinnati at least some of the answers to the many hard questions facing their industry. In this issue will be found feature articles and other material of special interest to the transit industry.



FRANK C. SULLIVAN

ONE unique angle of this struggle of the transit industry to maintain profitable and efficient operations, despite physical and economic obstacles, is the gradual acceptance of the idea that some drastic change in the *modus operandi* of public transport operations will have to be made sooner or later. Whether it takes the form of change in the utility operations, or in the operations of rival transport facilities—the fact remains that things cannot go on as they are, with unrestricted private transport trying to occupy the same space at the same time as common carrier transport.

A DICTATOR could solve the problem very easily by simply abolishing private transport or greatly restricting it, as Hit-

ler did in some of the older German cities when private automobiles just were not permitted in some areas during rush hours, without special sticker licenses. But the auto-riding American public is too fond of its traditional family jalopy to submit to anything, even in the way of mild parking restrictions, without much fighting or complaining.

LOOKING in the other direction, we hear interesting suggestions for altering public transport. California has authorized by law a proposed high-speed monorail rapid transit system for Los Angeles. The New York city fathers have been weighing a proposal to speed up its crosstown shuttle at 42nd street with a moving platform, reminiscent of the Chicago World's Fair in 1893. Ohio has considered moving coal and ores by belt conveyor. We hear rumors of possible uses for the helicopter in shuttling between airports, railroad terminals, and even in suburban rapid transit.

MAYBE the answer will be a combination of changes in both common carrier and private transport. The former might result in monorails, subways, and surface transit innovations. For the private automobile, fringe area parking, a ban on downtown parking, and various forms of off-the-street parking, may be in order. Out of some combination of these may come the day when urban transit service can once more be reliable, efficient, economical, and even profitable. But at the rate we are going, transit is faced with higher operating costs, higher fares, reduced service standards and patronage, lack of return, and even deficits—not to mention hardening of the arteries, which is turning our rush-hour traffic more and more into a state of creeping paralysis and passenger frustration.

CLARENCE H. ROSS

THE opening article in this issue on the passing of the system-wide fare for urban transit is the product of the well-known California business writer and editor, JAMES H. COLLINS. Another professional writer of business articles contributes the discussion of transit's place in the national defense picture (beginning on page 407). He is GEORGE W. KEITH of Cincinnati.

* * * *

A NEW writer in this publication is FRANK C. SULLIVAN, whose article on the regulatory aspects of transit begins on page 413. SULLIVAN is widely known in the public relations field, and is presently in charge of public relations for the California Public Utilities Commission. Prior to joining the state government in 1934, he was associated with several western newspapers, published in Butte, Montana, Portland, Oregon, and Sacramento and Oakland, California.

* * * *

THE interesting possibilities of public utilities leasing nonoperating plant buildings through financing by insurance companies is the subject of the article by CLARENCE H. ROSS, Chicago lawyer, beginning on page 424. MR. Ross is a graduate of the University of Nebraska (AB, '22) and Harvard University (LLB, '25). He has been engaged chiefly in practice of utility law with the Chicago firm of Daily, Dines, Ross & O'Keefe.

THE next number of this magazine will be out October 11th.

The Editors

Coming IN THE NEXT ISSUE

★

A LADY COMMISSIONER LOOKS AT REGULATION

An interview with the Honorable Hortense Fuld Kessler, the first woman to be appointed to the regulatory commission of New Jersey, the only woman utility commissioner in the United States, and one of the few lady commissioners in the history of American public utility regulation. This is an informal account of her background and personal experiences since she was appointed by the governor of New Jersey two years ago. In view of the fact that she has won recognition from consumers and utility people alike for fair-mindedness and common sense, the readers in other states may profit by her feminine point of view in the somewhat unusual field of public utility regulation.

SOLDIERS OF PUBLIC SERVICE

The telephone operator who stays at her post through flood or fire, the lineman who braves a howling hurricane to restore service, and other utility employees who risk and sometimes sacrifice their lives to save others, are among the heroes of our American way of life, just as surely as if they had braved enemy fire or suffered a casualty in the uniform of their country. Henry F. Unger, professional writer of Washington, D. C., has collected a number of exciting and inspiring experiences in which the heroism of utility employees has been recognized to the extent of Carnegie medal awards.

THE GREAT PUBLIC POWER MYTH

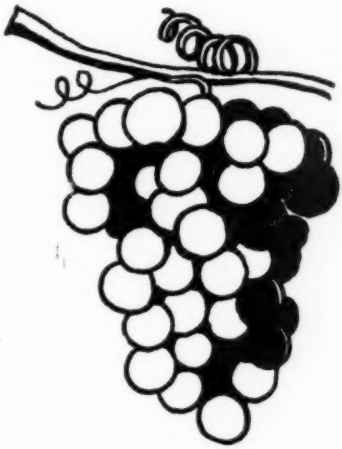
Here is a good summary of the arguments against a government policy of encouraging the promotion of so-called "public power" by subsidy, tax exemption, and other discriminatory favoritism. Charles Tatham, Jr., vice president, Institutional Utility Service, Inc., gives us some new, as well as old, reasons for looking beneath the camouflage of propaganda. He emphasizes the point that costs are inescapable, even though they may be hidden or shifted from one group to another.

DEPRECIATION OR DEPREDATION

The student of public utility regulation who advocates, in these days, a departure from the conventional accepted original cost approach to depreciation accounting is faced with the formidable if not insurmountable barrier of regulatory opposition. Even so, a consideration of factors which tend to justify a different approach is worthy of exploration even by those who are dead certain that the original cost basis is infallible and immutable. At least it should tend to test the justification of the accepted pattern. Henry W. Coil, general counsel of the California Electric Power Company, gives us a thought-provoking proposal for adjusting depreciation allowances to reflect the fluctuation of dollar values.

★

Also . . . ***Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.***



How many is a bunch?

A BUNCH doesn't just come with a standard number of grapes.

Bunches vary in size. Some bunches are small. Some are big. The same is true of your customers' bills.

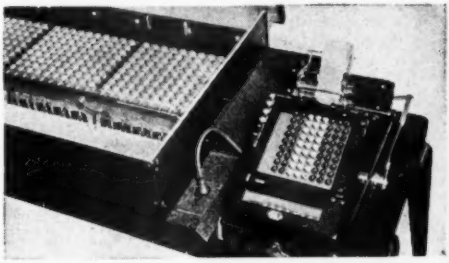
Proper analysis

When planning rate and promotional programs, therefore, it's mighty helpful to know just how your customers' bills fall into various kilowatt-usage categories.

The Recording and Statistical Corporation will provide you with such information about your customers' bills. Its special Bill Frequency Analyzer can process as many as 200,000 bills a day, and the cost to you is far less than if the work were done in your own offices.

May we send you complete facts about this accurate and economical method of compiling customers' usage data?

Write today for "The One Step Method of Bill Analysis." It may save you time and money in the months just ahead.



This Bill Frequency Analyzer—developed especially for utility usage data—automatically classifies and adds in 300 registers—in one step!

RECORDING AND STATISTICAL CORPORATION

100 Sixth Avenue New York 13, N. Y.

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

MICHAEL J. KIRWAN
U. S. Representative from Ohio.

"True, it was God who constructed the Shasta mountains—gave the snow, rainfall, and everything that made this huge reclamation project [Central Valley] possible—but the instrument He used to bring it to you, was the Democratic administration."

EDITORIAL STATEMENT
Farm Journal.

"The U. S. can spend itself into slavery to government. It will, unless an angry people stop the process before 'too late' time arrives. Once established, expenses are almost impossible to reduce. Only a terrific effort will ever check the spending orgy."

ALEXANDER WERTH
Writing in "The Nation."

"Without question Russia is increasingly well off materially, even spectacularly prosperous according to Asian standards. The young generation is energetic, increasingly efficient, and confident about the future. It is not a country that would invite lightheartedly an atomic war."

DEANE W. MALOTT
President, Cornell University.

"We must understand the imminent threat of inflation. And lest anyone be inclined to relax and enjoy the inflationary gale, let it be remembered that planned inflation has been effectively used by communist puppet governments as a simple and sure way to destroy existing social and economic systems."

D. A. HULCY
President, Chamber of Commerce of the United States.

"Management is vitally interested in all means of making the public aware of the necessity for a co-operative approach to production for the common good [but] the state, by determining the flow of production, can force savings by reducing the living standards of its people regardless of their personal preferences."

M. S. RUKEYSER
Columnist.

"With the day of reckoning approaching in both domestic and international affairs, it is high time for a competent intellectual opposition to expose the fantasies behind long years of political blue sky. Vote-buying 'give-away' schemes have worsened the national credit and reduced the buying power of the dollar."

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Dayton, Ohio

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• This forward-looking organization is another one of the many Public Utilities who enjoy the advantages of the L-N Alternator System.

On *your* two-way radio cars and trucks . . . or wherever current demands are high . . . the L-N Alternator System will give you:

25 to 35 amperes with engine idling
new freedom from battery troubles
longer battery life
lower radio maintenance costs
more consistent radio operation

There are L-N Alternator Systems rated at 50 amps. and 80 amps. for 6-volt systems; 60 to 150 amps. for 12-volt systems.

For all the facts, write The Leece-Neville Company, Cleveland 14, Ohio. Automotive Electric Equipment for Over 40 Years.

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REGULATORS • SWITCHES • FRACTIONAL HP MOTORS

LEWIS HANEY
Professor of economics, New York University.

"In our country, the idea of what is called social planning now prevails. This means a politically managed economy. It is our form of collectivism."

HARRY W. MORRISON
President, Morrison-Knudson Company, Inc.

"If all this agitation for public power would subside and let the people who can do it and want to do it go ahead, the country would be much better off."

JAMES P. KEM
U. S. Senator from Missouri.

"Those who made the republic were independent, straightforward, straight-thinking Americans, who valued self-reliance, diligence, and thrift. Above all, they entertained a healthy distrust of too much government."

HARRY BULLIS
Chairman of the board, General Mills, Inc.

"It is important that we continue to emphasize the advantage of a free economy in which free men, free labor, and free enterprise can continue to produce. Nothing short of full-scale, all-out war should be permitted to curtail our freedom."

EDITORIAL STATEMENT
Los Angeles Examiner.

"Where there is no free speech and hence no free opinion, the telephone becomes a monopoly of rulers. The same holds true for newspapers, radio, and telegraphs. To permit any of these channels to become public property, owned and operated by private enterprise, *would be fatal to dictatorship.*"

FULTON LEWIS, JR.
Columnist.

"The Socialist-Labor party, as a political machine, is a highly disciplined absolutism, as relentless and uncompromising as the Nazi party of old Germany, or the Fascist party of old Italy. For a Labor party member of Parliament, there is no such thing as a free vote. Orders come down from the top, and the price for failing to obey those orders is being summarily read out of the party."

EMERSON P. SCHMIDT
Director of economic research, Chamber of Commerce of the United States.

"Economic activity in 1951 is likely to reach a new high in dollar terms as well as in physical output. Because we are already operating virtually at full capacity, the increase in real output can come only from a longer workweek, a larger labor force, and improvement in productivity. . . . The year 1951 will be characterized by a shortage of goods and a superabundance of money. Upward price pressures will be widespread. Higher taxes and tighter credit controls will be necessary if the more burdensome direct controls of wage and price fixing and rationing are to be avoided. The diversion of a growing proportion of output to the military will make belt tightening inevitable and generate widespread efforts to shift the burden to the other fellow."

ONE-THIRD MORE POWER

Here it is...

with the Supair Thermal Cycle Engine

THIS reproduction of an actual indicator diagram is a measure of the average pressures within the cylinders of the *SUPAIRTHERMAL* Engine* and a conventional turbocharged engine. The darker area shows the amount of work being done by each piston in the conventional engine. The *solid red* area shows the *increase in the amount of work* done by each piston in the Nordberg *SUPAIRTHERMAL* Engine—*resulting in an increase of one-third in horsepower without increasing the maximum combustion pressure or the internal temperatures.*

Here, then, is actual proof that the Nordberg *SUPAIRTHERMAL* Engine *is* the outstanding engine of the Diesel field . . . delivering one-third more horsepower in the same space as a conventional turbocharged engine.

The *SUPAIRTHERMAL* Engine is available in a full range of 4-cycle types for fuel oil, Duafuel, or spark ignition gas operation, in sizes from 425 to 3200 B.H.P. Write for further information on the *SUPAIRTHERMAL* Engine, outlining your power requirements. *(Patents Pending).

NET RESULTS:

• 1/3 MORE HORSEPOWER IN SAME FLOOR SPACE • MORE HORSEPOWER PER GALLON OF FUEL • MORE HORSEPOWER HOURS PER GALLON OF LUBE OIL • INCREASED THERMAL EFFICIENCY • LESS HEAT LOSS TO WATER JACKETS • LESS WEIGHT PER HORSEPOWER • LOWER INSTALLATION – OPERATING – AND MAINTENANCE COSTS.

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P-SM251

BUSCH-SULZER
A DIVISION OF NORDBERG

NORDBERG
DIESEL ENGINES

NORDBERG MACHINERY

FIG. B-268

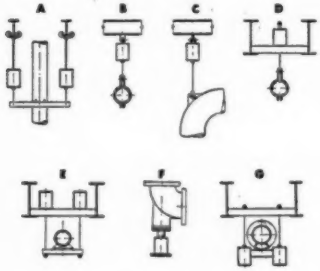
Pre-solve Pipe Suspension Problems...

with Grinnell Pre-engineered Spring Hangers

- Maximum variation in supporting force per ½" of deflection is 10½% of rated capacity — in all sizes.
- Precompression* assures operation of spring within its proper working range where variation in supporting force is at a minimum.
- Compact—minimum headroom made possible by precompression*.
- Guides prevent contact of coils with casing wall or hanger rod and assure continuous alignment and concentric loading of spring.
- All-steel welded construction meets pressure piping code.
- 16 sizes available from stock — load range from 74 lbs. to 9000 lbs.
- Easy selection of proper sizes from simple capacity table.
- Installation is simplified by integral load scale and travel indicators.
- Unique swivel coupling provides adjustment and eliminates turnbuckle.

**Precompression is a patented feature.*

TYPICAL APPLICATIONS

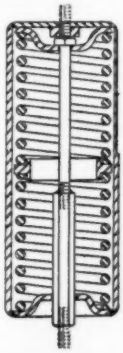


(A) Rod threaded to top cap (B) Furnished with single lug (C) Two lug style (D) Top adjusting (E) Adjustable top and bottom (F) For floor support (G) Trapeze assembly.

FOR LESS VARIATION IN SUPPORTING FORCE — FIG. 98

Fig. 98 is an adaptation of Grinnell's popular spring hanger, Fig. 268. It consists of two springs arranged in series within a single casing. A centering guide insures the permanent alignment of the spring assembly.

Fig. 98 has half the load deflection rate, and double the total working range of Fig. 268. Its 16 spring sizes accommodate loads from 74 lbs. to 9000 lbs. — but with a total working range *up to 5 inches!* Fig. 98 comes in the same seven types as shown for Fig. 268. Design details for identical types and sizes are the same for Fig. 98 and Fig. 268.



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...Your space requirements for serving these customers and maintaining your property must keep pace with the increase in the generating capacity of your system.

To help maintain efficient service, utility companies can turn to Ebasco for help in getting the full facts about the space they need to keep their operations in balance as generating capacity is installed.

Because Ebasco's Space Planning Division has had long experience with this problem, they can save you time and money in finding the solution that is best for you.

First they make a space requirement survey based on present operations. This information is projected to predict space requirements for service and maintenance in terms of future growth. Knowing these facts will help make your plans more successful and maintain your service standards as your business increases. Initial consultation with Ebasco is without cost or obligation. Write for "The Inside Story of Outside Help," describing the Ebasco services available to you. Dept. W, Ebasco Services Incorporated, Two Rector Street, New York 6, N. Y.

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Ebasco Teamwork gets things done anywhere in the world

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A new wave of enlightened interest in Reheat is sweeping the country as the role of the high pressure, high steam cycle promises to play an increasingly important part in power-generating facilities everywhere. Today, design developments in both boilers and turbines frequently dictate the use of the Reheat Cycle. But the spiralling cost of fuels is as much a factor as any in endearing this tool—so promising from its very beginning—to the hearts of steam-electric station operators.

Radiant superheaters and radiant reheaters were engineered and fabricated by Foster Wheeler as early as 1924 for one midwest station—considered one of the country's most efficient power plants.

The Foster Wheeler designs shown here have the following common features:

(a) Combination radiant and convection superheaters have a natural characteristic maintaining a constant final steam temperature over a wide load range with a minimum amount of control equipment.

(b) Since superheating is done partly in the radiant superheater a two-fold purpos is served. Gas temperature leaving the furnace can be reduced and danger of slagging is thus obviated.

(c) Steam generator characteristics are integrated with those of the turbine.

For further information, write to: FOSTER WHEEL

REHEAT— Four 700,000 lb per hr steam generators for an important midwest utility.

REHEAT—A 1,100,000 lb per hr steam generator for a large steam-electric station in central Pennsylvania.

REHEAT AND DUAL CIRCULATION—A 1,450,000 lb per hr reheat and dual circulation steam generator for a steam-electric plant in New York City. Dual Circulation, a Foster Wheeler development, makes possible the reduction of silica carryover to negligible quantities.

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LOOK FOR THE U.L. SEAL WHEN YOU BUY UNIONS

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UNDERWRITERS' LABORATORIES, INC. OF

BRASS SEAT
GROUND JOINT
ALL THREADS TAPERED

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of uniform compliance with the rigid requirements of the

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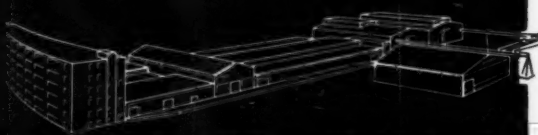
- Listed by Underwriters' Laboratories for use with all piping applications, including hazardous liquids, up to 250# Steam Pressure.
- Larger sizes are all forged-steel; smaller sizes machined from solid bar steel. High tensile strength — no sand holes.
- Compare Capitol Unions with any other union. Check workmanship, dimensions, weight, and finish; perform any test within their pressure rating — then, compare prices.
- Packaged in convenient quantities with each carton displaying the U. L. Seal.

SPECIFY CAPITOL U. L. UNIONS



CAP CAPITOL
MFG. & SUPPLY CO.
COLUMBUS, OHIO

PLINGS — NIPPLES — UNIONS — RADIANT HEAT FITTINGS
NACE COILS — WELL SUPPLIES — STEEL PIPE FITTINGS

IF IT FLIES AFTER THIS

With extensive damage in a critical wing area, this fighter interceptor returned safely to its Korean base.

IT WILL RIDE LIKE THIS

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DISTRICT OFFICES IN PRINCIPAL CITIES

Utilities Almanack

September

27	Th	¶ *Rocky Mountain Telephone Association begins annual convention, Salt Lake City, Utah, 1951.*
28	F	¶ *American Water Works Association, Ohio Section, ends annual fall meeting, Toledo, Ohio, 1951.*
29	Sa	¶ *American Gas Association will hold annual convention, St. Louis, Mo., Oct. 15–17, 1951.*
30	S	¶ *American Water Works Association, Missouri Section, begins annual meeting, St. Joseph, Mo., 1951.*

October

1	M	¶ *American Transit Association begins annual convention, Cincinnati, Ohio, 1951.* ¶ *Iowa Utilities Association begins management conference, Des Moines, Iowa, 1951.*
2	Tu	¶ *Edison Electric Institute, Prime Movers Committee, ends 2-day meeting, Buffalo, N. Y., 1951.*
3	W	¶ *Contractors' Group, Electrical and Gas Association of New York, Inc., and Independent Electric Contractors Association begin joint meeting, New York, N. Y., 1951.*
4	Th	¶ *Southeastern Electric Exchange, Engineering-Operation Section, begins conference, Richmond, Va., 1951.*
5	F	¶ *Southern Gas Association begins regional conference, employee regulations and accident prevention, New Orleans, La., 1951.*
6	Sa	¶ *International Road Federation ends first Pan American convention, Lima, Peru, S. A., 1951.*
7	S	¶ *United States Independent Telephone Association will hold annual convention, Chicago, Ill., Oct. 15–17, 1951.*
8	M	¶ *National Safety Council begins safety congress and exposition, Chicago, Ill., 1951.*
9	Tu	¶ *National Electrical Contractors Asso. begins convention, Washington, D. C., 1951.* ¶ *National Farm Electrification Conference begins, Cincinnati, Ohio, 1951.*
10	W	¶ *Indiana Electric Association begins convention, French Lick, Ind., 1951.* ¶ *International Asso. of Electrical Leagues begins conference, New Orleans, La., 1951.*

Transit in the Nation's Capital—1905

Busy scene at 9th and F streets, featuring plug hats, derbies, and ankle-length dresses.

Public Utilities
FORTNIGHTLY

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Going Off the American Plan In Car Fares

Everybody settled down to the new zone system in Los Angeles, after a hectic interval of complaints, and it now works smoothly. But still more revenue is needed —and there remains the terrific problem of rush-hour traffic.

BY JAMES H. COLLINS*

THIS rezoning of bus and trolley rides has really been coming a long time, so let's start by getting a little perspective on it.

It is another phase in the United States going off the American plan.

Out of the bottom of an old bureau drawer comes a bill of fare from the lush days of America, with hundreds of food items, including game, any or all of which could be ordered for the American plan price of not more than a dollar.

In those days the few Americans coming home from European tours reported quaint customs. Not only were you charged for every dish you ordered, but the bread, butter, and napkin were separate charges.

With the coffee the waiter brought in a bowl of luscious cherries. You ate greedily—to discover that they were counted, and that they were billed separately in your check.

*For personal note, see "Pages with the Editors."

Bus rides were measured off in penny zones, and by some mysterious process the conductor kept track of all the passengers, where they got on, where they got off, and charged them the right number of pennies.

A Londoner in Edinburgh paid too much, and had a penny refunded by the conductor, with a warning to be more careful.

"Which shows that the Scotch are not stingy," he said. "They just hate to see anybody misuse a sacred thing like money."

You may remember when our banks were all on the American plan. You were urged to open a checking account, nothing was ever said about balance, and this went on until rising costs drove them to the billing of service charges.

LIFE with us is becoming more and more itemized, and now that fine old American institution, the flat fare for a trolley or bus ride, is dropping to pieces, and in Los Angeles they have lately been finishing a job of rezoning that they think was pretty well done, considering.

Today, in Los Angeles, on bus and trolley, you pay for the cherries one by one. This seems to be a change-over that calls for a half-dozen steps:

1. Acknowledging that there is nothing more to be wangled out of the flat fare.

2. Making the studies for a new zoning system that will do quite a number of things, such as preserving as much of the short-haul traffic as possible, getting a fairer price for the longer rides, laying in plenty of statistical "ammo" preparatory to stirring up the hornets.

3. On your facts developing as simple a zoning system as possible, for as good public relations as may be, and to lay as light a burden as possible on your operating personnel.

4. Selling the new system to regional and other interests.

5. Going through the wringer of state utility commission hearings, public opposition, and misunderstanding.

6. Living through the actual change-over, when the hornets are really awing. According to the planning of previous steps, this can be shorter and less stormy a phase than might be apprehended.

THE flat fare had few friends among Los Angeles transit people. It had gone bankrupt, and been replaced by a system of fare zones that was going the same way.

In days of the nickel fare, and traffic mostly in an inner zone of three or four miles in all directions from the old Plaza, transit companies had made money.

As new residential and industrial areas sprung up, five to eight miles out, some of the passengers took longer rides, and the scheme of things began to get out of balance, the short-haul rider paying for the long-haul traffic. Fare increases were asked for, and obtained, and beyond the 6-mile circle from the City Hall, for which ten cents was charged, a second nickel zone was established. And a third zone followed at the fringes of the town.

This was the state of affairs until last year. The passenger could board a red car at Hollywood Bowl, pay a dime, get a transfer, ride eight miles into town, transfer to a yellow car, ride another eight miles to the East

Side, and still have a transfer left.

There were weekly passes which, for a dollar and a half, permitted unlimited inner zone riding from Sunday morning to Saturday midnight. Anybody could use them, and in office organizations they were passed around freely.

The American plan, sure enough!

Even before the war, Los Angeles was growing away from the center, increasing the long rides, cutting into the short ones. Trying to balance things out with a flat fare, or the old zones, was chasing your own tail. Over the country, flat fares have gone as high as 17 cents, and 20 cents is said to be in sight. Los Angeles transit executives are convinced that flat fares would not fit realities in that city, even if doubled.

It took traffic and operating executives, engineers, public relations departments, utility commissioners, local chambers of commerce, and others to make the studies for a new zone system, for both the red cars (Pacific Electric Railway Company) and yellow ones (Los Angeles Transit Lines).

There was an inner 10-cent zone twelve miles across, with the City Hall at the center. This was reduced to eight miles, at the 10-cent fare. Transfers interchangeable between the two systems enable the passenger to change twice after the first ride, so that much more than eight miles' travel is obtainable for a dime.

Around the new inner No. 1 zone there are eight No. 2 zones, from four to six miles in length, two or three miles in width, for which another nickel is charged. Five No. 3 zones still farther out, and two rudimentary No. 4 zones at the extreme edge, at a nickel each, complete the present scheme.

To measure off a single transit route in zones is not so complicated, but when you have an area of more than 400 square miles, with many different boundaries, and two systems of transit, you have a spider web to measure off, and need a lot of facts.

The old system was muddled by numerous overlaps which not even operating personnel fully understood. It was not easy to collect the right fare from the passenger boarding the first vehicle, and stating a distant destination. He might pay too little, and additional fare was asked farther out. This was a fertile source of argument and irritation.

The facts upon which to establish new fare zones have to be sought in unusual places. There must be some flying by the seat of the pants. In a town that has exulted in such postwar growth as Los Angeles, census figures

¶ "The *facts upon which to establish new fare zones have to be sought in unusual places. There must be some flying by the seat of the pants. In a town that has exulted in such postwar growth as Los Angeles, census figures have little value, fall too far behind. Traffic statistics help, as far as they show the volume, time, and character of travel on different routes.*"

have little value, fall too far behind.

Traffic statistics help, as far as they show the volume, time, and character of travel on different routes. They have seldom been kept with this purpose in view. Local chambers of commerce, merchants' associations, police departments, and other sources are likely to have late figures on shoppers, motor traffic in shopping centers, and so on.

LOS ANGELES has many shopping centers, and they are all organized to protect their interests. Catering to them according to their community interests, not political, is good zoning. For these centers hold possibilities in short-haul traffic.

Problems arise, such as what to do when travel to a shopping center is roundabout, through different zones, where there is no direct service. If zoning is too rigid, the fare would be 20 cents. With more direct service it would be 15 cents. Adjusting the zone to make the fare 15 cents is good business, and staves off a demand for direct transit service. Zones can be set so that the minimum fare takes shoppers to two or more centers.

Example of a shopping center:

Not so many years ago, out on the lone prair-e-e west of the city, excavators dug into the La Brea tar pits for bones of the saber-toothed tiger, the mammoth, and other creatures trapped there maybe 20,000 years ago, a rich scientific haul. Then a baseball field was established, streets were laid out, a farmers' market was started. Today this is a sports and shopping center, with an auditorium housing expositions and trade shows—in some ways a traffic center as important as downtown, likely to develop short riders. So it is reached from two zones for a 10-cent fare.

SINCE war's end, business has been escaping from the downtown area, with its traffic and parking difficulties.

A smallish business, like an advertising agency, or publishing concern, goes out three to five miles, leaving office building space, and buys an old residence, fits into parlor, bedrooms, and bath, parks its cars in the back yard or on the lawn, and is better off in every way. Bus and car-riding employees travel on less congested routes, a good thing for them, and for transit companies.

Larger concerns—like an oil tool wholesale company — build farther out, beyond transit lines, leave crowded old downtown warehouses for a streamlined plant that cuts operating costs. Employees motor to work. It may well be that public transportation will never move out that far, because there is not enough traffic.

Looking ahead, transit people can see no population increases in the downtown area, and perhaps all of Zone 1. The trend is downward. Downtown Los Angeles may become mainly parking lots and freeways.

So the new zones lean heavily on new centers.

One of the most important features of the new system is a "gimmick"—the streamlined transfer worked out to save time, operating detail, and confusion.

Old transfers showed the destination zone. The new ones reverse that, and show in which zone the passenger boarded the first vehicle, and how much fare was paid. Color indicates the direction of travel. Interchange-

GOING OFF THE AMERICAN PLAN IN CAR FARES

Limitation on Zone Fares

"GOING off the American plan in car and bus fares has not solved the real 'toughie' in transit problems, and it does not seem likely that it ever will, in Los Angeles or anywhere else. This is the problem of equipment and personnel necessary to handle peak traffic during the rush hours morning and night. In Los Angeles this peak traffic runs to nearly 1,000,000 passengers daily. Popularly, it is imagined that then, with every vehicle jammed, the companies make money!"

ability of transfers between the two companies has been retained.

When the passenger boards the one-man vehicle which is now universal, he gets a transfer, quickly punched, or if none is asked for, and the ride is to extend into another zone, he is given a hat check. If he tenders a transfer it can be quickly scanned. This simplicity of transfers saves time in rush hours, and has eliminated many arguments that arose from the old system.

AT the end of a zone it is necessary to stop the vehicle while the operator passes back among the passengers, picks up hat checks, inspects transfers, and collects additional fares where necessary. These stops are made at points carefully picked for the least interference from traffic, and during the rush hours the work of checking is shared by supervisors, who board the vehicle for that purpose. Supervisors also collect fares from some passengers during the rush hours, admitting them through the rear exit doors, to which they have keys.

On the average, this whole proceeding takes about two minutes even in busy hours, but it turned out to be one of the features of the new system that bred most criticism. Stopping the car while the motorman turned conductor and checked passengers looked inefficient, and there was much discussion and wisecracking by passengers until it became routine, and was accepted as part of the deterioration in the quality of the ride that has to be accepted by the riders.

Between the time application was made to the California Public Utilities Commission, and the date of inauguration, last December 10th, the companies trained personnel for the change-

over. This amounted to complete re-education, forgetting what was known, and learning the new zone boundaries, rates of fare, proper punching, and honoring of the new transfers. Several classes were held daily. The result was that the new system worked smoothly from the start as far as employee knowledge was concerned. That was a great help in living through the weeks of public misunderstanding.

DURING the past five years Los Angeles transit companies have been through strikes, through hearings on fares, and through other ordeals, arising from the fact that they have not been making money. It might be thought that the public would have been convinced that they are not making much, if any.

But each new application stirs up the hornets in the same way, the populace and its organizations rising to battle, insisting that money is being made out of the straphangers, and concealed. Lately, with one-man vehicles replacing the old two-man service, rubber replacing rails, and other economies being applied to the actual ride, the public might have suspicions about everything being prosperous. But the rezoning application brought the same rather blind and angry resistance. California has a very fair and thorough utilities commission, which in the end, on the facts of costs and revenues, must permit increases. But the hornets are as vigorous and vindictive as ever, and transit companies meet with more opposition than other utilities.

Net income for Los Angeles Transit Lines has been steadily falling since war's end, from a little more than $1,000,000 in 1946, to $561,000 in 1950. Pacific Electric has had deficits in all those years, except one—in 1948 it had $33,000 profit, but the following year was $894,000 in the red.

These figures are challenged in various ways. It is protested that equipment and roadbed are carried at inflated values, that fares out of all reason are demanded for poor service with old vehicles.

WHILE the hearings are under way, there is much unpleasant publicity. The best way of meeting it seems to be by presenting a clear case to the commission, and letting the facts speak for themselves. No magic of "public relations" has ever contrived a rebuttal.

On the day that the new zones became effective, there was a storm of complaints and phone calls. Office people were drafted to answer calls for information, and the pressure on vehicle operators was especially heavy. When they came back collecting a second zone fare at a point nearer in, passengers protested, and wanted to argue the new system, holding the operator as the responsible party.

On several busiest downtown streets busses no longer stopped at corners, but in the middle of blocks where shoppers lighted. This change caused hot arguments with operators for several weeks, passengers at first joining in, and then as they learned about the new rules, helping operators by explaining to one another.

Newspapers were helpful, publishing explanations of the new system—there are 55 newspapers in the Los Angeles transit area, and this did much

to smooth the change-over. Newspapers also developed a minor source of advertising, by showing merchants how the new fares could be advertised to increase store traffic.

This is a phase that has to be lived through, because the real culprit is Old Man Habit. Battling his way from home to the job, or in the case of his wife, from home to a shopping center, John Citizen found that his habits had to be changed. That, he didn't like, until he formed a new habit.

The new system went into effect two weeks before Christmas, in the holiday traffic jam. Despite resentment, the transit companies had the safest holiday season in their experience, a yardstick on the pace at which the public understands something new, and changes its habits accordingly.

It would be pleasant to report that going off the American plan has put the Los Angeles transit companies in the black, solved all their problems. Alas! there is now pending another application for an increase in fares. The new system has failed to increase revenues as expected.

This new increase will apply only to the Zone 1 fare, raising it from 10 to 15 cents. The passenger riding into Zone 2 would still pay the same fare as he does now.

Of course, such an increase falls on the desirable short-ride passenger, and it is argued that instead of paying it, he might walk. Hardly yesterday, he rode for a nickel, and then for seven cents. Or until the new zone system went into effect last December, he could buy a weekly pass for $1.75 and ride as much as he wanted to, and lend it to his friends. Those were the days for him!

However, in rebuttal, who likes to walk nowadays?

Going off the American plan in car and bus fares has not solved the real "toughie" in transit problems, and it does not seem likely that it ever will, in Los Angeles or anywhere else.

This is the problem of equipment and personnel necessary to handle peak traffic during the rush hours morning and night. In Los Angeles this peak traffic runs to nearly 1,000,000 passengers daily. Popularly, it is imagined that then, with every vehicle jammed, the companies make money!

Some figures presented by Pacific Electric for one bus line, to Redondo Beach, show how all riders in all zones at whatever fare are steadily paying all day long for the morning and evening peaks.

Between 10 AM and 4 PM eight operators running eight busses handle all traffic on this line, and generally there are seats. But during one hour in the morning, 7:20 to 8:20, and one hour in the afternoon, 4:20 to 5:20, the

¶ "During *the past five years Los Angeles transit companies have been through strikes, through hearings on fares, and through other ordeals, arising from the fact that they have not been making money. It might be thought that the public would have been convinced that they are not making much, if any.*"

traffic demands 37 additional busses, or a total of 45.

These vehicles make only one trip daily inbound and one outbound. The operators have to be paid for a full day of eight hours—and have a club room and library for their waiting hours. The busses do not require recreation, an $851,000 investment, but their idle time is a charge on normal traffic, too.

THESE mounting troubles of the transit companies remind the writer of an American, in London, who years ago spoke admiringly of the British workman's thrifty use of tram service.

"In New York you find workmen and office people riding as much as an hour, night and morning, from Long Island and New Jersey, to reach their jobs," he said. "And you find the streetcar companies carrying them miles and miles for a nickel. Nobody seems to think of distance or time. But the London workman with his penny fares for a limited ride takes care to live near his work. He saves time, and money, and the transit company makes a profit on his travel."

Are the people in our cities coming around to something like that?

In Los Angeles, they are spreading out from the center, into old residences, and shopping centers, and executives are locating as near their factories as possible, to avoid the eternal grind of the daily drive.

It may be that a national movement is under way to bring home and job closer together.

If so, that will be part of the European plan!

Trolley Lovers Have Gay 65-mile Reunion

IN the semidarkness of the damp underground terminal beneath the Manhattan plaza of the Queensboro Bridge last spring, fifty-one bus haters, or trolley lovers—the terms appeared to be synonymous—climbed aboard an aging streetcar to begin the sixth annual triborough trolley tour of the Transit Improvement Association.

For more than ten hours thereafter the enthusiasts rode over 65 miles of track "for an old-fashioned ride and to prove that the trolley is more economical, more comfortable, and safer than the bus."

Actually the trip was a one-borough affair since Brooklyn is the only section of the city where trolley lines still extend for any distance. However, members of the association stuck to their "triboro" guns by pointing out that the first car they occupied on the trip had carried them from Second avenue and 59th street in Manhattan to Queens plaza.

But cover the borough of Brooklyn they did! Smoking, laughing, eating their lunches, and booing the busses they passed, the streetcar devotees roamed from Coney Island to Williamsburg, Bushwick to Canarsie, and Ebbets Field to Sheepshead Bay.

The sentiments of the association membership on busses was, perhaps, summed up by nine-year-old Tommy Mozer of Philadelphia. "I hate busses, I hate busses," he shouted over and over.

Transit's Powder Is Dry!

The transit industry is ready to pull its weight in any defense emergency. Armed with its auxiliary force—Transit Radio—it has offered itself to the nation. Its first concern is for its passengers, who are, in a manner of speaking, its guests.

By GEORGE W. KEITH*

In World War I emergency passenger transportation turned rout into victory, when the battle for Paris was decided by a fleet of nondescript autos and taxis.

In World War II it was with a fleet of little boats that an all-but-encircled army was snatched from the jaws of disaster at Dunkerque.

In World War III (which may God forbid) will sleek, modern busses be cast in a similar heroic rôle?

Transit's part in the defense program has emerged, sharply defined, since the president of the American Transit Association wrote in the September, 1950, *Bus Transportation:*

> . . . You write your own ticket and make your own guess. Certainly it would be everything the industry knew in World War II, and more besides, with global war opening up the additional dimension of civilian defense and evacuation, in the event of the bombing of American cities.

Providing adequate service for war workers, as was done in the last emergency, is dwarfed by the demands of a greater problem.

Girding its loins, the industry faces squarely the probability that it will be in the thick of battle, its vehicles the targets of enemy planes.

Across the land, from Tacoma to Jacksonville, transit is preparing for the worst while hoping for the best.

Its first concern is for its passengers, who are in the nature of guests, towards whom the host feels a great responsibility.

These riders, it has been repeatedly pointed out, may be the only large groups of our citizens completely isolated and in the dark in an attack. Unless—

Unless transit is permitted to use its strong right arm, Transit Radio, at that time.

Strange as it may seem, there is some doubt about this. On the theory

*For personal note, see "Pages with the Editors."

that enemy craft may follow and ride in on a radio station's signals, it appears that only a few selected AM stations will stay on the air once the alarm is sounded. That is the military viewpoint, subject, however, to a yet undetermined decision.

Dissenters say that our soft spots and gold mines of production are as well known to the enemy as they are to us. There is nothing that can be done to keep their craft from coming in but shoot at them.

Besides, they contend, Air Force General Hoyt Vandenberg has said for publication that we can only hope to intercept about 30 per cent of the attacking planes, in spite of every precaution.

To the casual observer it would seem that whether radio stations are operating or not means nothing to an attacker, with all the other means of information available.

THERE is nothing so insidious as a rumor, they say, and in time of disaster it becomes a horrifying monster. In warfare it is a weapon beyond price to the enemy.

If transit has anything to do with it, it is said, there will be no rumors or innuendos to frighten its riders, at least in those cities with radio-equipped vehicles.

A cool, calm voice from out the ether, with authentic bulletins and instructions, would give drivers and riders a wonderful lift.

It is for this reason, among others, that the industry desires to keep its riders fully informed, in an effort to avoid that panic which might be brought about by ignorance, fearful doubts, and an ominously silent radio.

But it is not going to confine itself to the rôle of newscaster. It has notified the Defense Transport Administration at Washington and every other interested agency that it will, cooperating with Transit Radio, place its vehicles, microphones, and transmitters at the disposal of appropriate authorities.

DECLARING that these can be of critical value to both military and civil authorities in an atomic attack, or any other type of enemy action, local disaster, or emergency, it suggests these useful services:

1. Direct communication by radio can make these vehicles effective in evacuating wounded. Many new type busses are instantly convertible for ambulance duty.

2. Evacuation of civilians.

3. Transport of military personnel.

4. The instantaneous broadcast of instructions, authentic news bulletins, etc., can be one of the best methods of panic control.

5. Control and direction of drivers of vehicles, as public transit operators will be on the "firing line." They will be expected to stick to their jobs, to drive through or around dangerous areas, etc. Without direction they might abandon their vehicles. This might prove disastrous to passengers, including wounded, who might otherwise be evacuated. Lacking the discipline and training of troops, they need to be sustained by official communication and direction.

6. In a crisis, with electric power off, AM and TV and home radios would be out of service. Bus radio's FM transmitters have auxiliary power, the transit receivers being battery-op-

Transit's Responsibility As Host

"TRANSIT'S part in the defense program has emerged, sharply defined . . . Across the land, from Tacoma to Jacksonville, transit is preparing for the worst while hoping for the best. Its first concern is for its passengers, who are in the nature of guests, towards whom the host feels a great responsibility."

erated. In the first crucial hours they may easily be the principal communication at the disposal of authorities in more than a score of large metropolitan areas. (Among them is Washington, probably the most tempting target on earth.)

THIS would appear to be an offer that would obtain immediate, joyous reception. Indeed, the civilian defense authorities seem to feel that way about it.

Brigadier General Charles O. Thrasher, retired, director of civil defense for Kansas City, had this to say on the subject:

> We agree that radio-equipped busses and streetcars can play an extremely important part in the event of an atomic attack. . . . We therefore assure you that . . . the services of the Kansas City FM Transit Radio, in connection with the Kansas City Public Service Company . . . can be, and will be incorporated in the over-all civilian defense plans. . . .

Without any desire to frighten people, but rather to condition them for the worst, a series of announcements was broadcast recently to transit patrons.

This set a pattern for other cities, in anticipation that one FM transmitter in each area would be permitted to operate in a crisis.

A typical example ran thus:

> Thoughtful citizens realize that in another war we may not escape bombing here at home. In such an event this vehicle would be immediately available to Civil Defense authorities. Instantly and accurately informed by radio, its operator and passengers would know what steps to take to preserve their own safety, and to fit into the over-all civilian defense planning.

IN New York, which is not as yet a Transit Radio member, Colonel Sidney Bingham, chairman of the Board of Transportation, told how the busses he designed for that city's use can be converted in a matter of min-

utes, as they are specially designed, with center doors wide enough for stretchers to be passed through.

Plans, he added, have been made to install stretcher-holders inside busses to accommodate two tiers of stretchers, without removing the seats.

The practicality of both these ideas was forcefully presented in a brochure prepared at Kansas City. The photographs of seated bus passengers, surrounded by human-laden stretchers, is a grim sight, but also a reassuring one. As is also the picture of a "victim" being taken out on a stretcher through the ample side doors of a bus.

Said Colonel Bingham:

> The conversion from bus to ambulance can be carried out quickly, without technical help, while the bus is on its regular route. Our plans for the protection of our citizens call for a mobile fleet of 900 busses that quickly can be converted into ambulances.

How much more effective these would be if they were radio-equipped, and how tragic it might be to silence the 4,500 busses which are so equipped, should be a matter for grave consideration.

EVERYWHERE the preponderance of opinion seems to favor using radio to full capacity. Indeed, the blue book, *U. S. Civil Defense,* issued by the National Security Resources Board, stresses, "The nerve system of civil defense is communication."

AM, FM, and TV radio are mentioned specifically. "Provide," says the manual, "in every instance secondary systems of communication in the event the primary system is made unavailable or inoperative in the emergency."

Under "Transportation" are listed no less than fourteen uses for which busses, under the transit proposal, could easily be utilized.

Which is probably what Frank S. Evans, director of civil defense at Tacoma had in mind when he accepted the Transit offer, thus: "Due to the fact that your station (KTNT-FM) has receiving sets on all city transit busses . . . we cannot emphasize too greatly the importance that these busses would have for us."

Tacoma Transit Company vehicles carry, as do all those in every city where vehicles are radio-equipped, public service announcements related to defense — recruiting, Community Chest, Red Cross, rehabilitation, etc., about forty agencies in all.

Station KXOX, in co-operation with the St. Louis Public Service Company, received expressions of acceptance from Governor Forrest Smith, and every state and municipal defense agency.

"I can visualize no one agency that would have a more vital part . . . ," said Ralph W. Hammond, Missouri's defense director.

THE St. Louis Board of Police Commissioners issued a formal statement declaring that radio-equipped busses have been incorporated in that city's police mobilization plan, covering every kind of emergency, disaster, or civil disturbance.

"Transit Radio," it said, "is a unique part of the plan which cannot be developed by any other means of communication presently available."

Said Frank D. Sullivan, defense co-ordinator, regarding KXOX spot announcements, "These broadcasts are

preparing the public in a very effective way for any disaster . . . and have a tendency to prepare them against panic and fear, should anything occur."

No other organization has been working harder than Capital Transit and WWDC-FM, in Washington, in preparing to help protect that highly bombable area.

Their facilities have been placed at the disposal of the District planners without qualification.

In addition, they have recently conducted an educational emergency-conditioning program, such as mentioned by the St. Louis co-ordinator.

The Washington station has also offered the government a refined use of FM in the form of supersonic pulses which cannot be heard by the human ear.

These are used to cut off portions of programs from certain receivers while the busses continue to carry them.

The pulses can be used by defense for instructing air-raid wardens, police stations, and other centers, and for setting off warning devices. Only those with special receiving sets could get these signals.

WWDC is the only Washington station using this device, a development of the last war, but it is suggested that all 11 FM stations in the area could be tied into a pulse network.

At Cincinnati, the Cincinnati Street Railway Company and the Cincinnati, Newport & Covington Street Railway, in conjunction with WKRC, laid a 5-star offer in the laps of national, state, and local defense officials.

The unconditional assistance proffer of the two transit companies, the Cincinnati *Times Star*, and three radio stations, AM, FM, and TV, all in one package, is probably unique, and impossible of duplication anywhere.

WKRC-TV ran a series of five one-hour public service programs illustrating every aspect of civilian defense in the most graphic manner possible.

Paul J. Larsen acknowledged receipt of the Cincinnati offer. Writing from the National Security Resources Board, Washington, he said, in part, "We feel certain that the facilities of your various outlets would be of considerable use to your local civil defense program."

What has been written does not begin to cover the whole picture. From Flint, Michigan, Des Moines, Iowa, Worcester, Massachusetts, Twin Cities, Omaha, Nebraska, Jacksonville, Florida, and all the other Transit Radio membership, come reassuring

¶ *". . . the efficacy of radio-equipped busses is proving of inestimable value as a peacetime agency. The flood at Kansas City was made easier to cope with, directing vehicles through or around trouble spots, and in dispatching busses to evacuate passengers. Every quarter-hour bus passengers got an up-to-the-minute flash on flood conditions everywhere, serving to set at rest many minds which were wondering if their loved ones were in danger."*

words of transit's realistic grasp of the situation, and its preparation to become a "soldier" in the front line of our Battle for the Cities.

In the meantime the efficacy of radio-equipped busses is proving of inestimable value as a peacetime agency. The flood at Kansas City was made easier to cope with, directing vehicles through or around trouble spots, and in dispatching busses to evacuate passengers. Every quarter-hour bus passengers got an up-to-the-minute flash on flood conditions everywhere, serving to set at rest many minds which were wondering if their loved ones were in danger.

CAPITAL TRANSIT and WWDC recently restored a lost three-year-old girl after newspaper stories and pictures could not turn the trick.

At Jacksonville a frantic mother was able to rush to the side of her snake-bitten son, in about a half-hour after the accident, through hearing WJHP broadcast a call for her while on a Jacksonville Coach Company bus.

Such incidents as these cannot help but impress the powers that be when it comes to making the final decision as to transit's rôle in defense.

No matter what that decision will be, it should be noted that, if there is, as is sometimes charged, an appalling apathy in official and public circles as to the seriousness of the situation, the transit industry recognizes the danger.

And, recognizing it, the industry appears to be ready to meet it with all its resources, and with little or no expense to the government.

More Transit Riders Mean Less Congestion

"EACH automobile entering the Richmond downtown business area during the day carries an average of 1.2 persons. One large local transit bus could provide seats for enough of these people to get 37 automobiles off the street. Filled to capacity, one bus could eliminate 55 to 60 automobiles.

"Some traffic engineers think the best single hope of solving the problem of urban motor vehicle congestion is to encourage greater use of public transit facilities. Many people now prefer the inconveniences of riding a bus to the greater (in their opinion) inconveniences of struggling with an automobile in heavy traffic and trying to find a place to park.

"The American Society of Planning Officials reports that traveling to work by automobile has been found to cost city dwellers from two to 12 times as much as riding public transit. Despite this differential, says the society, the number of individuals driving to work continues to increase.

"And the number using public transit has been going down steadily since 1946. During the second quarter of the present calendar year, the Virginia Transit Company carried only about 63 per cent as many passengers here as it carried during the corresponding quarter of 1946.

"In making more and more streets 'one way' and extending parking prohibitions, the city is trying to make it a little easier to drive an automobile in the downtown area. But these various moves also are making unrestricted curb parking space scarcer and scarcer. This may influence some persons who now drive to work to begin leaving their cars at home.

"In any event, there's little point in merely urging motorists to use public transit instead of driving their automobiles. . . ."

—EDITORIAL STATEMENT,
Richmond Times-Dispatch.

Where Do We Go from Here?

That the American urban transit industry may well be standing at the crossroads of its destiny is the view of the author. He makes some timely comments upon the transit industry's problems in the light of modern social and economic trends.

By FRANK C. SULLIVAN*

In Wilkes-Barre, Pennsylvania, some 200,000 people awoke the morning of August 10th last to discover that they would have to get to work the best way they could. All busses and trolleys had been idled by what the newspapers termed "a surprise work stoppage."

At about the same time, the citizens of Stockton and Santa Monica, California, were hitchhiking their way to work and home again, because of labor controversies on privately owned transit systems.

In Bakersfield, California—during the same week—the city council haled before it the operating owners of the local transit company and, in a public session which generated what appeared to be a great deal of acrimony, wanted to know why—in words of one syllable which could be explained to an angry, transit-conscious public—the company desired to redesign some routes and abandon others.

In regulatory commissions around the nation, transportation experts, whose sensitive fingers have for years recorded the slightest changes in the pulse beats and blood pressure of American urban and interurban transit, began to note certain signs and portents, made mystic notations on charts and graphs, pursed their lips, and looked thoughtfully out their windows.

And in Sacramento, California, Governor Earl Warren reached for the executive pen to sign two important legislative measures—one providing for the creation of a Los An-

*For personal note, see "Pages with the Editors."

geles Metropolitan Transit Authority, with power to issue revenue bonds to raise capital for construction and operation of an overhead monorail system which would extend about 20 miles from San Fernando to Long Beach, following the course of the Los Angeles river; the second setting up a Bay Area Rapid Transit Commission, whose task it would be to devise an adequate and integrated transportation network for the San Francisco-Oakland Bay area.

The growth or decline of immensely valuable property values, as well as the work and play habits of almost 7,000,000 Californians, promised to be affected, one way or another, by these two pieces of legislation.

CALIFORNIA State Senator Gerald O'Gara of San Francisco, one of the chief legislative sponsors of the Bay Area Commission, announced that his 9-member legislative committee, which has been studying transit problems for the past two years, will offer results of that study to the Bay Area Commission soon.

Significantly, he added: "We intend to leave the commission free to reach its own decision." Embraced in this freedom, he explained, was the establishment of a monorail system in the Bay area if the commission so decided.

All of these apparently unrelated events seemed to exhibit one factor in common: With lightning-flash clarity each served to depict for all to see phases of the troubles that are beginning to plague America's metropolitan carriers.

It isn't hard for anyone familiar with this industry to catalogue the symptoms which have led to onset of the malady, but so far no transit Cagliostro has appeared with an economic panacea which might be successfully applied as a magic remedy.

THE April, 1951, monthly letter of the National City Bank of New York city lists "transit" last among 70 American industries for net earnings during 1950.

The range of disparity, indicated by the letter, was from a high of 32.3 per cent in net earnings for automobile and truck manufacturers to a low of 1.9 per cent for transit.

Class I rail carriers were noted as being a step above transit, with net earnings more than twice as great.

It is possible that what we are witnessing is the beginning of technological changes which may conceivably open the door for the commencement of a new and dynamic era in mass transportation. Every transit specialist, casting a nostalgic glance backward, is well aware, for example, that the horsecar took the pedestrian off Shank's mare, but surrendered in time to the electric trolley, which, in turn, and within the past decade, pretty well abandoned the field to the gasoline or trolley bus.

To whom then does the future belong? Monorail? Greater subways, with country feeders? A re-energized dependence upon elevated rails? Stronger reliance upon rail carriers with their private roadways, or possibly forward to some solution for moving humanity en masse as yet undreamed of?

No one seems to know for sure—but many are sitting up nights thinking about it.

It could be that the restless brain of

some embryo Edison already is groping toward the ultimate answer. In an era of atomic energy, pictures flying through the air, and man speeding faster than sound, nothing can be considered impossible of human accomplishment.

While the final answers may elude us at this time, the causes, however, for the present difficulties lend themselves to definitive analysis.

Increase in private automobile usage, of course, is one of them, and nowhere in the world is this situation more sharply exemplified than in California.

THE United States Bureau of Public Roads places California first in car ownership, with 4,620,078 vehicles, aside from motorcycles and trailers. The state's own count is 5,043,368 or at least a million more than New York.

During the summer months a round half-million additional vehicles cross the state's borders—with 50,000 tourist cars entering during even the lowest months of the year. The result of this mad scramble on wheels: California's highways can no longer accommodate the gas-happy horde, even though men, materials, and money work frantically at the problem. Indeed, California highway engineers, bearing in mind rate of construction and estimated future revenues, figure that proper accommodation will require another forty years for accomplishment.

This is a sobering realization for transit-conscious management and citizenry to bear in mind.

If the open highway cannot handle the demands made upon it by the motorcar—and won't be able to cope with such demands for another forty years—what about the streets of American cities, most of them originally laid out and constructed for the horse-drawn hansoms, beer trucks, and fire engines of Grandpa's day?

The fact is, as every transit engineer is aware, that the heartland of American metropoli is being constricted by surface traffic as though caught in the toils of gigantic pythons, squeezing out the lifeblood. Clogged streets, with dropping property values and decentralization, are the order of the day, and these continuously emphasize the development of a new pattern in the growth history of American cities. Rural America originally moved in from the farms and fields to congregate around the offices and the ma-

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chines of the new industrial civilization. Then the American left his offices and his machines in the caves and canyons where he was required to toil and made his home in the outlying areas; now he is taking his work along with him to these peripheral spaces.

EACH change in the social and business trend has affected the transit industry. Today's congested streets and highways, caused in large part by riders abandoning public carriers for their private automobiles, have had much—though not all—to do with causing today's transit headaches and loss of revenues. Such congestion spells slower schedules, higher costs, constantly lessening patronage, with further revenue declines. The circle is ominous in its implications. Or state it another way: Today's higher costs lead to higher fares, which lead to additional private car usage, which lowers revenues, which require higher fares, which drive more riders to the automobile.

"What percentage estimate have you used to reflect the diminution factor which may be encountered under the increased fares?" is a stock question asked of engineers nowadays in public hearings before regulatory bodies when higher transit fares are under consideration. And the stock answer, which is being heard too often, is: "About 20 per cent of the amount of the fare increase requested."

That the engineers know whereof they prophesy cannot be doubted, for recorded results speak clearly for themselves. When the California Public Utilities Commission recently authorized a 25 per cent increase in Pacific Greyhound Lines' commutation fares from Marin county to San Francisco, a commission expert previously hazarded a prediction from the witness stand that rider usage would decline 20 per cent if the increase went into effect. It appears that now, after a few months' experience, the actual figure will be 18 per cent.

ATTEMPTS of transit companies to serve outlying districts as they are established have brought some interesting developments from the standpoint of revenue. How long are carriers justified in maintaining service on feeder lines when it is obvious that, though requirements of public convenience and necessity may possibly support such service, rider patronage and revenues certainly do not? And a corollary query, which borders on the childhood conundrum about the chicken and the egg: Which occurs first—and which should occur first—decreased rider usage, or curtailed service?

Elicitation of answers to these questions has provoked long and bitter wrangles at public hearings on transit fares, since in answering them a lot depends upon the point of view. For example, ratepayers frequently contend with some heat that if utilities would provide and maintain de luxe service they would win back many of those patrons lost to the private automobile, and thus enhance their revenues, particularly on outlying lines. Most utilities maintain that a prudent regard for the well-being of their stockholders and the patrons of other portions of their lines require that they curtail noncompensatory operations as swiftly as they can do so, bearing in

Changing Times Mean Changing Trends

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mind all the contributory factors which must be considered, such as public reaction, or the possibility of future population growth which might, in time, bring more riders and more returns.

On this point, however, some interurban carriers assert that future population growth which might furnish more riders would simply bring greater losses, so they are placed in the peculiar economic position of hoping that they won't have more business. Additional business, they claim, would simply mean greater losses. This extraordinary situation results from a carrier being a certificated monopoly in the interurban field and hauling commutation passengers at a noncompensatory rate, while at the same time earning a fair over-all return from other operations.

ASIDE from the private automobile, the installation of television in American homes has proved no boon to the transit industry. In great metropolitan areas where evening streetcars or busses were once crowded by happy throngs bound downtown for the latest Hollywood superproduction, the story is a sad one. Transportation engineers put it simply: "They stay home now—television." The effect on revenues is pronounced.

The transit industry's present malaise is aggravated, also, by the general inflation which has led to increased costs for supplies and materials, motive power, and franchises obtained from revenue-hungry and service-minded city councils or county governmental bodies.

And then, of course, there is labor. The controversies at Wilkes-Barre, Stockton, and Santa Monica, of recent note, have been paralleled elsewhere in the postwar era. They are only a few of many labor stoppages which have brought higher costs to

the industry, furrowed brows to transit management, and repeated requests for fare increases. From one end of the nation to the other there have been labor troubles, or negotiations, which have had the same end result: higher wages, higher fares, loss of riders to the automobile, and loss of revenue.

As a matter of cold fact, recent revenue studies of urban carriers disclose that most of them hit their high point of rider revenue along in 1945 or 1946—when gasoline and rubber rationing forced John Q. Citizen to use public transit, and when Rosie the Riveter and millions of her sisters were traveling back and forth to war industries. Since those years, the general revenue trend has been downward.

Fare increases have apparently not halted this trend; indeed, a pertinent question might be whether they have tended to accentuate it. For some time, experts have wondered when the economic rule on diminishing returns would begin to take hold in earnest. Where, they ask themselves, is the point beyond which a fare increase is no longer practicable—where the diminution factor of the increase is not 18 or 20 per cent, but 30, possibly 40, maybe 50?

No one seems to know that answer. One might guess, but a guess would be of no practical value, anyway, because it seems quite obvious that unless the present trend is arrested, the economic malady must run its allotted course—from higher costs to higher fares to loss of rider revenue, and back to higher fares again, and so on *ad infinitum,* or until private transit is priced out of the market by conditions beyond its control.

Knowing these things, many in the industry are beginning to view the future as through a glass, darkly, but any notable lack of enthusiasm cannot be wholly supported by facts. It may be true that the skies are gray. But, on the other hand, the dam has not busted and it isn't time to head for the hills.

The suggestions for a cure have come from many sources, as it became clear to a portion of the public at least that the transit industry's ills were not necessarily entirely its own fault.

There can be little doubt but that in California, as an example, the monorail proposal has begun to capture the imagination of the public.

Recently, a lady rider on a San Francisco-bound interurban bus, whose upthrust hat feather somewhat accentuated the indignant tones of her voice, was heard to exclaim: "Monorail is the only answer to mass transportation these days. Imagine—busses. They're relatively horse-and-buggy transportation. We'll have monorail transportation within a year."

As though in answer to her words, the San Rafael, California, *Independent-Journal,* of August 2, 1951, featured an editorial titled: "Monorail Study Will Be of Great Service to the Public." It said, in part:

> While rising costs have plagued bus operations—be they gasoline, diesel, or trolley—the results have not been quite so disastrous (*i.e.,* as the fate which overtook the local electric railway commute system); they have managed to continue operations in most instances.
>
> But busses are subject to increasing traffic delays. And as traffic congestion

grows in Marin county as it has in most suburban areas of the nation, the future of the bus for rapid transit becomes more doubtful. With these thoughts in mind, then, the prospect of monorail is quite appealing.

The newspaper goes on to say that the only monorail which has progressed beyond the experimental stage is that near Cologne, in Germany, and "reports vary as to the success of its operations." Notwithstanding, the editorial states that the Marin County Associated Chambers of Commerce are studying monorail, and concludes that "it may or may not be" the answer to the county's transportation problem.

THAT problem, so like similar problems in other metropolitan areas of the nation, was graphically highlighted by the *San Francisco Chronicle* of August 12th last in a page 1 newspaper account of how San Francisco-bound week-end highway automobile traffic via the Golden Gate bridge was backed up on a recent Sunday evening, bumper to bumper, for a distance of 10.7 miles—from the bridge approach back north to San Rafael, home of the *Independent-Journal,* and that it took car drivers, cursing bitterly, as long as two hours to negotiate the approximately 10-mile stretch. Grandfather knows that a horse could have done equally well. As for transit busses—what becomes of their schedules?

In the light of such traffic conditions it is easy to understand why monorail has suddenly developed such apparent widespread and warm public appeal. Save for the practicalities involved, the helicopter might hold forth exactly the same appeal.

For it is readily conceivable that the public's dream, fostered by a rather pathetic hope, envisions the invention and early installation of some form of off-the-ground transit indifferent to ground-level impediments which reduce both highway and urban motor travel to a bumper-to-bumper crawl, and has led at least one American city to consider moving or demolishing downtown buildings to provide automobile parking space.

Be that as it may, however, the realist grounded in the regulatory process, aware that the investor in public utility property is entitled to a fair and reasonable return, knows that before new and revolutionary mass transit methods can be undertaken, there are several factors to consider. One of these is the element of construction cost.

A RECENT unofficial engineering estimate on monorail construction

¶ "IT *is a mystifying folk phenomenon, noted by many observers of the current scene, that Americans can, and do, get madder over local transit conditions and service than almost anything, including high taxes, or high prices. If you insist upon proof of this, ask the informal complaint section of any American utilities regulatory body, or the public service bureau of a municipally owned and operated transit line . . .*"

cost was $1,000,000 per mile in fairly favorable terrain. "What about fares based on such costs?" was the question which followed this estimate. Another was: "What about fares for surface feeders complementing monorail built at such costs?" So far, both of these questions have not been definitely answered.

It could be that revenue bonds issued by a community for amortization over long-term periods might ultimately answer the question of costs and, after costs, fares. As a matter of fact, such bonds may be the sole manner in which financing might be accomplished, for it is to be questioned whether private interests could, or would, undertake such a speculative project.

Thus, it would appear that monorail, which is beginning to loom as somewhat of a bugaboo to the transit industry, could, after all, prove not too serious a competitor, although only time can positively enlighten us on this point.

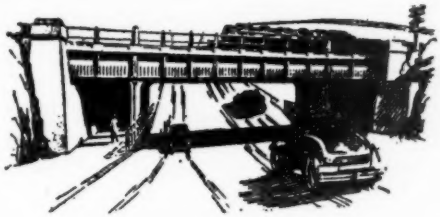
THERE remain other suggestions for consideration. One of these, advanced several years ago by a San Francisco newspaper columnist, was regarded at the time as a none-too-witty jest, but the passage of years and the intensification of transit troubles, have given it stature and a measure of acceptance in certain circles.

Moreover, its originator, Arthur Caylor, still a widely read columnist, reiterates the proposal upon occasion, so the idea has never completely been abandoned, and it often comes up for round-table discussion among transit specialists. The plan is a simple but startling one: To solve the transit problem at one fell swoop, Caylor recommends that American cities purchase existing transit systems and transport their citizens without charge. It is only through cities taking this step that the automobile driver can be lured away from his machine, he contends.

ANOTHER suggestion, at least partly akin to Caylor's, has been winning adherents of recent years. This is predicated upon the cities purchasing the transit lines from private owners, fixing nominal fares, and operating at an anticipated loss, supported by tax subsidies levied against all residents, whether riders or not. This program is not so far away from what is happening among some municipally owned and operated lines at present, save that these lines now apparently strive mightily to make ends meet. Under the proposed plan, such an effort would be made, perhaps, but smooth operation and proper service, even at a loss, as opposed to either breaking even or operating at a profit, would be the controlling considerations.

Then there is still another suggestion advanced to heal the industry—and the advocates of this school insist that they belong at the head of the class for resting their case upon pure logic.

It is this group which declares that too many citizens consider the lines they patronize or have ceased to patronize in the same category as Beelzebub, and have gone to pains, at times, to make these views raucously vocal. That there may be some color of truth to this observation is attested by the fact that in many American cities the



Profit and Loss on Auto Transport

"MOST motorists understand primary costs, such as gasoline and tires, but how many reckon depreciation, wear and tear, resultant repair bills, incidental washings, downtown parking charges, possibly increased insurances, which totaled, and then figured on a single ride basis, become a shocking sum as compared to public transit fares for the identical trip? There must be substantial rewards in convenience and speed to offset automobile costs and frazzled nerves, but the factor of automobile speed, particularly at peak hours and in city traffic congestion, can today be discounted as pure loss."

transit industry has been for years—and is today—the whipping boy of local politics.

IT is a mystifying folk phenomenon, noted by many observers of the current scene, that Americans can, and do, get madder over local transit conditions and service than almost anything, including high taxes, or high prices. If you insist upon proof of this, ask the informal complaint section of any American utilities regulatory body, or the public service bureau of a municipally owned and operated transit line; or, better still, foregather with a group of riders in any large American city and offer a comment upon the excellent service being provided by the local transit company. Then duck for the storm cellar to avoid the blast.

The task then would seem to consist of two phases: first, that of taking certain constructive steps to overcome criticism of existing service and, second, other constructive steps to win back to public transit those potential riders who have turned to their private motorcars.

ADMITTEDLY, the job is not either simple or easy of accomplishment, but, by the same token, it is not impossible. Locked in a competitive struggle with both the airlines, on the one hand, and passenger stages on the other, the rail carriers have managed to hold their own by keeping abreast of technological improvements and merchandising their services in fundamentally about the same manner a merchant vends soap or any other item. The rails—and the merchant—sell, respectively, their services and

their products. The transit industry must do the same. If there still remains, anywhere, the old "public be damned" point of view, it must be eradicated. Instead, the public must be cajoled, flattered, petted, won back to public transit through broad and intelligent programs, utilizing whatever media of communication are available. There apparently is no other immediately practical alternative.

THAT many transit utilities have been derelict in the application of what would seem to be quite elemental merchandising methods to sell their services is shown by a glance at their advertising expenditures with relation to their gross revenues. At a time when American business is merchandising as never before in modern history, the annual advertising and promotion expenditure of a transit utility grossing $15,000,000 annually amounted to $39,141, or 26/100 of one per cent of its gross; the following year, with the same gross, the same utility expended $29,388, or 20/100 of one per cent of the gross.

A larger transit utility reported $24,760,795 in gross revenues, and $32,625 in advertising expenditures, or 13/100 of one per cent of the gross.

These comparative figures are illustrative of how some transit utilities approach the task of fighting for their share of the transportation business against the competition of the private automobile. It would seem that the problem ahead for them would be all but insuperable, for in a period when the allocation of approximately 3 per cent of the gross is generally regarded as none too much to maintain general business velocity, these firms are depending upon the expenditure of as little as one-seventh of one per cent to win public good will and rider acceptance.

Budgets of small urban carriers sometimes contain nothing whatever for advertising and promotional purposes.

AND transit systems have a story to tell, which, if told properly, would unquestionably do much toward quieting unwarranted criticism. No one but a traffic expert can realize, for instance, the inherent complexities involved, the man power and equipment utilized, and the hurdles surmounted in moving thousands of persons from one place to another during morning and evening peak periods. Does the public know and appreciate this?

The very interesting explanation of how loading standards prescribed by regulatory bodies are actually applied has never yet been gotten over to the public in a readily understandable fashion.

Almost every metropolitan rider believes in his heart that when he is jam-packed into a bus or trolley at the peak hours, along with others similarly squeezed, the transit company, by so doing, is thereby necessarily violating regulatory loading standards, when, as a matter of fact, those standards are applicable *over a measured period of time for a total number of riders as compared to a total number of busses.* One jam-packed bus may be followed a moment afterward by one carrying empty seats.

Would so many motorists drive their cars to work, eschewing public transportation, if they were thorough-

ly aware of what their actual out-of-pocket costs are for this individual transportation?

Most motorists understand primary costs, such as gasoline and tires, but how many reckon depreciation, wear and tear, resultant repair bills, incidental washings, downtown parking charges, possibly increased insurances, which totaled, and then figured on a single ride basis, become a shocking sum as compared to public transit fares for the identical trip? There must be substantial rewards in convenience and speed to offset automobile costs and frazzled nerves, but the factor of automobile speed, particularly at peak hours and in city traffic congestion, can today be discounted as pure loss. It is peculiarly apropos regarding this point that the San Francisco-Oakland bay bridge, longest bridge in the world, was constructed, among other reasons, to cut the time taken by the ferries in hauling motorists across San Francisco bay. The ferries required twenty minutes. Today, driving the bridge at peak periods will take you thirty minutes at least—maybe forty; and you're lucky to make it any time in twenty, leading many motorists to audibly yearn for the "good old days" when they could relax at their wheels while the ferry carried them across.

And yet, these same motorists, ill-tempered and wild-eyed, insist on battling their way across the bridge, bumper to bumper, while comfortable intercity electric trains whirl smoothly along on lower deck rails, only partly filled to capacity.

Comparable situations exist everywhere.

So, from the standpoint of cost, time, sunny disposition, and hazard, it could be argued the individual motorist is making a mistake by competing with public transportation, particularly for the longer hauls. He is beginning to suspect as much, perhaps; the task is to convince him intellectually, and then win him back.

It must, and can, be done.

"Deficit *financing is merely concealed and postponed taxation for that is the only true source of government income.*

"While in theory prodigious spending should provide a powerful stimulant and generate an upward movement, unfortunately it is counterbalanced by the atmosphere of uncertainty and the threat to Federal credit. Thus while the government steps on the accelerator, business puts on the brakes. Profligate spending of public money not only chills confidence and casts the shadow of fear over the future, but also it militates against new undertakings and stifles the normal activity of productive agencies.

"Since the abandonment of the gold standard there have been no effective brakes on Federal expenditures or 'red lights' flashing warnings to officials when unsound policies have been followed."

—Excerpt *from New England Letter, published by The First National Bank of Boston.*

Sale and Lease-back Agreements For Utilities

This is a discussion of the sale and lease-back agreement, which analyzes this practice from the public utility standpoint. The author looks into this subject and examines some of the arrangements that have been entered into by utility companies, and the benefits derived.

By CLARENCE H. ROSS*

Nonutility companies, such as Safeway Stores, Inc., Sears, Roebuck & Co., R. H. Macy & Company, Inc., Associated Dry Goods Corporation, Western Union Telegraph Company, and many others, have entered into "sale and lease-back" agreements with institutional investors aggregating hundreds of millions of dollars. Only a nominal dollar amount of such agreements has been entered into by regulated utilities. Such agreements have been made in more or less isolated instances with respect to office buildings, garages, and other buildings, not constituting a part of the operating plant, by companies such as Pacific Power & Light Company, Portland, Oregon, Pacific Telephone & Telegraph Company, San Francisco, California, Associated Telephone Company, Limited, Santa Monica, California, Iowa Power & Light, Des Moines, Iowa, and others.

Telephone subsidiaries of Central Electric & Gas Company have entered into a total of ten agreements of this character, of which nine cover premises in which new automatic telephone central office equipment has been installed by the respective operating companies. These agreements were entered into by the respective operating companies of this group with The Northwestern Mutual Life Insurance Company, Milwaukee, Wisconsin, The Mutual Life Insurance Company of New York, New York, Equitable Life Insurance Company of Iowa, Des Moines, Iowa, and Central Standard

*For personal note, see "Pages with the Editors."

Life Insurance Company of Illinois, Chicago, respectively. No other instances have come to my attention whereby any utility company has entered into a sale and lease agreement with respect to real estate designed and built specifically for the housing of operating plant as distinguished from office, warehouse, or garage purposes.

No serious difficulty was involved with respect to the mortgage indentures of these companies as a result of this procedure. The central office telephone equipment installed in such buildings is included in the definition of property additions under such indentures and is subject to the lien thereof just like any other property. Accordingly, under the terms of these indentures, bonds may be issued with respect to such telephone central office equipment, just as if it were installed in buildings owned by the company. As a matter of fact, the installation of small units of telephone central office equipment in leased premises is a common practice in the independent telephone industry.

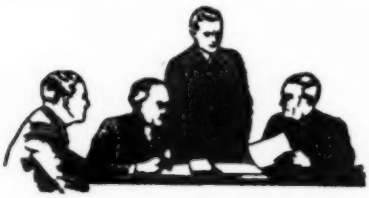
The principal requirement under the mortgage indentures with respect to such property so installed on leased premises is (1) that it be subject to the lien of the indenture as a first mortgage; (2) that at the end of the term of the lease such property additions may be removed from the premises, if the company is not in default under the lease; and (3) that such property is susceptible of use after such removal.

The bonds issued with respect to this central office equipment are held by large institutional investors and no impairment of the marketability of these bonds was experienced as a result of the installation of such equipment under such sale and lease-back agreements.

THE benefit to the operating company and to its subscribers from such sale and lease back is rather startling, particularly in the case of Southeastern Telephone Company, a subsidiary of Central Electric & Gas Company.

Southeastern Telephone Company (the Company) owns and operates the telephone exchange at Tallahassee, Florida, and also provides telephone service to thirty other communities in Florida and Georgia. Until the fall of 1950 the common battery central office equipment at Tallahassee was housed in a building which was built in 1936. This building, in addition to housing the central office equipment, also housed toll equipment and the general offices of the Company. Early in 1950 an addition to this building was completed and new dial automatic central office equipment was installed therein and the old common battery central office equipment was dismantled. The old part of the building continues to house toll equipment and the general offices of the Company.

A sale and lease-back agreement was entered into with respect to this building (the old building and the new addition) with The Mutual Life Insurance Company of New York, whereby the Company sold the building for $304,000 with a lease back. This lease runs for an initial term of twenty-five years, with five optional renewals on the part of the telephone company for five years each. The annual rental for the initial term is $18,240 and for the option terms, if exer-



COMPUTATION OF REVENUE REQUIREMENT

Depreciated book value of land and building	$183,103.48
Rate of return to which Company entitled	7%
Net operating revenues to which Company entitled	$ 12,817.24
Income tax (47%) requirement	11,366.23
Revenue requirement before taxes	$ 24,183.47
Add 53% of depreciated expense (after deduction of tax benefit)	1,810.59
	$ 25,994.06
Deduct 53% of interest charges (after deduction of tax benefit)	1,516.33
Final annual revenue requirement with respect to ownership of the building	$ 24,477.73

cised, is $6,080. As the rental of $18,240 produces a tax benefit (at the 47 per cent rate) of $8,572.80, the gross revenue which the Company must collect from its customers to meet this rental is $9,667.20 per year.

THOUGH this building was sold, as stated above, for $304,000, its actual depreciated book value at the time of sale, based on cost, was $183,103.48. A computation has been made of the cost to the Company of owning this building in terms of annual gross revenue requirements; that is, the amount of annual revenue the Company would be entitled to have from its customers with respect to its investment in this building, had it continued to own it. Assuming the Company is entitled to a return of 7 per cent on its rate base, this rate applied to the depreciated cost of the building, or $183,103.48, produces an annual net operating revenue requirement with respect to the building of $12,817.24. In order to produce this amount after income taxes, annual gross revenue requirements are $24,183.47. In addition, the continued ownership of the building would entail a depreciation charge which (after giving credit to the tax benefit of 47 per cent) entails an additional net revenue requirement of $1,810.59.

The net operating revenue set forth above, *i.e.*, $12,817.24, includes provision for interest on the Company's debt. On the basis of the Company's debt ratio (50 per cent) at December 31, 1950, 50 per cent of the investment of $183,103.48 would be represented by 3⅛ per cent bonds, resulting in an interest charge of $2,861, which, after

the tax adjustment of 47 per cent, effects a reduction in the revenue requirement of $1,516.33. As indicated by the following computation, the final revenue requirement is $24,477.73. This is the amount of money which the Company would have had to collect annually from its customers in order to permit it to obtain a net operating revenue equivalent to 7 per cent of the depreciated cost of the building.

THUS, the annual gross revenue required by the Company for the ownership and occupancy of this building is $24,477.73 as against $9,667.20 for the occupancy of the building without ownership. Under the terms of the lease the Company pays taxes, insurance, and similar charges in the same amount which it would pay in the event of ownership. Thus for rate purposes, on the basis of a 7 per cent rate of return, the operating revenue requirements of the Company, as a result of this sale and lease back, are reduced in the amount of $14,810.53 annually. On the basis of a 6 per cent rate of return the annual gross revenue requirement would be $21,037.27, resulting in a saving of $11,370.07.

Under the terms of the other nine sale and lease-back arrangements entered into by the telephone subsidiaries of Central Electric & Gas Company, the premises were all newly constructed and were sold at cost and leased back on the same basis. Had the Southeastern Telephone Company sale and lease back been made on a cost basis (depreciated) instead of a fair value basis, the rental saving would have been even more startling. In that event the gross rental requirement, instead of being 6 per cent per annum on $304,000, or $18,240, would have been 6 per cent on only $183,103.48, or $10,986.21. As this rental of $10,986.21 would produce a tax benefit (at the 47 per cent rate) of $5,163.52, the gross revenue which the Company would have had to collect from its customers to meet this rental is $5,722.70. This is the figure which, in the usual case, would be deducted from the revenue requirement of $24,477.73, as computed above, and under these circumstances the difference in revenue requirement between ownership, and sale and lease back would be $18,755.03. Thus, the revenue requirement for ownership of the building under the ordinary circumstances of a sale at cost, is more than three times the revenue required for occupancy under a sale and lease back.

THE reason I used the Southeastern Telephone Company sale and lease back as an example, rather than one of the other nine sale and lease-back arrangements of the telephone subsidiaries of Central Electric & Gas Company, is because of the effect of the sale by Southeastern Telephone Company of its building at fair value rather than cost.

In those jurisdictions where the commissions compute rate base on cost the rate base for the Company's investment in this building would, on the basis of cost, be $183,103.48. The Company was able to realize the fair (market) value of the building at the time of its sale, or $304,000, which (on the assumption that the net cost was the net tax cost) resulted in a capital gain of $120,896.52 which, after capital gains taxes, left the Company with

$90,672.39 of equity rate base in addition to that which it would have had had it continued to own this property.

While some nonoperating property, such as a general office building, can be excluded from the rate base of a utility, this is rarely accomplished in case of ownership of property more directly connected with operations, such as buildings housing telephone central office equipment. Even where a company owns buildings of this character the commissions properly should value them for rate-making purposes at fair (market) value. In those jurisdictions which refuse to recognize this basis of valuation, the sale and lease-back agreements permit a utility company, for all practical purposes, to realize this fair market value by the sale of the building and by the investment of the market price (less capital gains taxes, if any) in other utility properties. Based on a 7 per cent over-all return, a 50 per cent debt ratio, and a charge for debt of 3½ per cent, the realization by the stockholders on this additional equity money of $90,672.39 at 10¾ per cent amounts to $9,067.24 per annum before taxes. After taxes (at a 47 per cent rate) this leaves a balance of $4,805.63 per annum.

THE over-all result is, therefore, that not only the subscribers but the stockholders have benefited substantially from this transaction. The question of whether a utility can afford to own nonoperating real estate answers itself.

Of course, it must be kept in mind that the rental charges under any such sale and lease agreement would take precedence over the interest charges on bonds. As a practical matter, however, the existence of such agreements is likely to represent such a modest proportion of utility plant that it is not believed likely to have any noticeable effect on the rate of interest which a utility company would be required to pay for its bond money. Nevertheless, it is a fact that utility officials and others would naturally want to weigh in considering the adoption of such a leasing arrangement.

The benefits of leasing capital assets, in lieu of owning them, have recently been extended into other fields. *The Wall Street Journal* on March 15, 1951, contained an article stating that there are thirty-five firms engaged in the business of leasing fleets of automobiles and trucks to business institutions such as Westinghouse Electric, Radio Corporation of America, Jones & Laughlin Steel Corporation, and others. It was reported that one of these firms now has approximately 10,000 cars leased on this basis. It will be surprising if this device is not extended to other fields under the impetus of high tax rates, which is, of course, the source of all the direct benefit from such transactions.

"ALL efforts to engraft the so-called Fair Deal program of socialized medicine, the Brannon Plan, FEPC schemes, and other radical and socialistic programs must be divorced entirely from our armament program."

—JAMES C. DAVIS,
U. S. Representative from Georgia.

Washington and the Utilities

Roanoke Goes to Court

ON September 5th in Baltimore, Maryland, Interior Department's *cause célèbre* against the hydroelectric jurisdiction of the Federal Power Commission finally went to court. The so-called Roanoke Rapids Case was argued before what is probably the crack bench of the entire Federal appellate judiciary —three justices of the Fourth U. S. Circuit Court of Appeals: Chief Judge John J. Parker and Associate Judges Armistead M. Dobie and Morris A. Soper.

Gregory Hankin assumed the responsibility for arguing Interior's effort to override the FPC hydro license issued to the Virginia Electric & Power Company for developing the Roanoke Rapids site. Arrayed against him were eight lawyers representing the FPC, Virginia Electric & Power, and two other power companies which are collaterally interested in the case. Chief counsel Bradford Ross and staff counsel Willard W. Gatchell defended the FPC. Interior's sole ally was a group of Virginia REA co-ops which limited appearance to a brief statement agreeing with Hankin and the arguments made in his brief.

None of the judges were strangers to the basic issue of the litigation which has to do with the promotion of public power development at the expense of, or in competition with, privately owned utility company development. All have rendered, at one time or another, rather noteworthy opinions dealing with such various phases of government-utility relations as the early New Deal Public Works Administration project financing, holding company litigation, and water-power supply litigation. But observers were impressed by the complete familiarity which the judges demonstrated, through their questions with the details and nuances of Federal public power policy and its impact on private industry.

Before Attorney Hankin could launch into his argument on the merits of Interior Secretary Chapman's reasons for not wanting the Virginia Electric & Power to build a dam at Roanoke Rapids, he ran into a barrage of critical questions from the bench on Secretary Chapman's right even to bring the case into court.

HANKIN'S main contention is that Congress reserved that Roanoke river basin in Virginia and North Carolina for Federal development when it passed the Flood Control Act of 1944. "If you permit Vepco to build this dam," Hankin said later in his argument, "it means that any of the government's river basin plans can be interrupted by getting a license from the FPC."

But the judges wanted to know by what authority the Secretary of Interior challenged an action of the FPC in view of the statutory jurisdiction which Congress gave to the FPC for licensing dams. When Hankin cited the Flood Control Act, Judge Soper commented, "that doesn't help you any." Judge Dobie raised the question whether the Flood Control Act did not give primary jurisdiction to the Secretary of the Army. And when Hankin responded that the law turned over surplus power developed by the Army to the Secretary of Interior for marketing, Dobie replied: "Yes. But if the Secretary of War decides there isn't any surplus power then what the Secretary of the Interior gets is what old Mother Hubbard's dog got." Chief Judge

Parker was seen to shake his head in puzzled fashion following some of the answers he got from his questions.

THE 5-hour session ended up with an exchange between Attorney Hankin and Judge Dobie, who asked the following question: "The power commission is charged with safeguarding the interests of the people. If there is something wrong with an application, won't someone in the FPC have the sense to see it and the guts to do something about it?"

"That, your honor," said Hankin, "is why we are here before you. We have had the floods in Missouri, Kansas, and Oklahoma, costing forty lives and a billion dollar damage. I heard on the radio this morning the Kansas river was flooding again."

The FPC attorneys contested Interior's right to be in court and to challenge the decision of another government agency. The power company's attorney, T. Justin Moore of Richmond, outlined for the court the steps taken since 1929 for private development of the Roanoke Rapids site. At that time, he said, coal was selling for $4 a ton, making hydroelectric development temporarily uneconomical. But for twenty-five years the utility owned the land, rights, and plans —awaiting a possible shift of economic balance. It came with a vengeance. "John L. Lewis came into this thing," Moore explained. "Now coal is $10 a ton." Demand for the company's service has skyrocketed. So a new application was filed in 1948 and altered at the suggestion of the FPC so as "to squeeze out every available drop of electricity" but at the extra expense of $6,000,000 for the project.

Moore argued that if Congress had intended to lift the jurisdiction over the Roanoke site out of the hands of the FPC and reserve the site for Federal development, "it would have said so specifically. It did so in the case of other rivers." He added that the Army Engineers always considered that some power sites would be developed by private companies when they drew up comprehensive plans.

THERE was no indication from the bench as to just how soon a ruling might be expected. But Chief Judge Parker did indicate that he expected the court's decision would go to the U. S. Supreme Court. For that reason the appellate judges are likely to act quite deliberately.

If the court should throw the Roanoke Case out on grounds that the Secretary of Interior had no right to maintain suit, there is a good chance that the precedent would overshadow a similar conflict between the FPC and Interior now shaping up over a private company license on the Kings river in California. The latter case is still pending before the FPC on rehearing, following an earlier decision in favor of granting a license to a private company over Interior's objection.

Co-op Tax Plan Draws Fire

SURPRISING though it may be to some, and shocking to others to the point of apoplectic indignation, it is a lead pipe cinch that the tax on co-ops, recently proposed in the Senate, will not have the effect of letting Treasury Secretary (Honest John) Snyder roll around in the wealth of fantastic tax returns. It will, if adopted by Congress—which is still a very doubtful outcome—make no notable dent in the national debt. There would be no reason for the rest of us taxpayers to throw our caps in the air over the prospect of a lighter burden when the Ides of March delivers our Form 1040 to the Collector of Internal Revenue.

Even so, the very fact that Secretary Snyder suggested such a tax and that the Senate Finance Committee tentatively approved it, is in the order of a minor miracle—offset somewhat by President Truman's cautious and somewhat ambiguous letter to a radical farm group, expressing the hope that Congress would not take any action which would affect the "effective functioning" of the farm co-ops. If the Senate committee's tentative vote sticks in its own final report, a close battle awaits the proposal on the floor of the Senate. And in the further

event that the co-op tax, mild though it is, squeaks through the Senate, the House will probably go along. And so, after all these years of battling by the tax equality organization, we would at least have some crossing of the traditional lines which have held co-op profits exempt from corporate income tax payments.

It is doubtful if many operating co-operatives financed by the REA would be taxed under the plan approved by the Senate committee this month. But it might affect several of the larger generating and distributing co-ops. In brief, the committee agreed to remove the exemption now granted to co-operatives (under § 101 (12) of the Internal Revenue Code) under the following circumstances: (1) where more than 5 per cent of the co-operative's members are not individuals; (2) where the total assets of the co-operative, exclusive of inventory, amount to $100,000 or more.

The form of the proposed Federal tax on such nonexempt co-operatives would be very mild. It would be limited to a tax on undistributed dividends not paid back to patrons in cash or merchandise within seventy-five days after the year in which the patronage occurred. The co-operative could also have the tax advantage of patronage dividends paid out in the form of irrevocable obligations redeemable with interest (3 per cent or more) within a period of not more than two years after the patronage occurred.

The reaction of REA officials to the possibility of a Federal tax on co-op "income" is almost apathetic. Some officials seem to think that if a co-op does have any undistributed dividends on its books, maybe it would be a good idea to tax them. Others pointed out that REA's own "capital credits plan" might be used by these co-ops to change the character of the surplus funds so as to eliminate any tax liability under the Senate committee plan.

Maybe more definite reaction will be heard from this quarter when a large assembly of the super co-op officials meet in Washington at a gathering tentatively planned by REA for October 8th to 12th. This will be the first conference of its kind in two years. A hundred super co-op officials are expected to attend the discussion on power policy and operating problems. Clyde T. Ellis, executive manager of the National Rural Electric Cooperative Association, is scheduled to speak; and it would be surprising if he and the other speakers did not touch on the subject of co-op tax liability.

But if the REA co-op reaction was fairly quiet, it was another story in the general co-operative field. President Patton of the National Farmers Union charged that the proposals "will seriously hamper co-operatives." He protested particularly the removal of tax exemption from groups of co-ops that combine for the sake of more efficient operation. (The so-called super co-ops for generation and transmission of power come within this category.)

Patton termed the recommendation "a body blow to the co-operative movement." Co-op leaders attending sessions (in Utah) of the American Institute of Co-operation (representing fifty or more co-ops and co-operative councils) expressed their indignation. John H. Davis, executive secretary of the National Council of Farm Co-operatives, protested that the Senate committee's measure, if enacted, would be "far-reaching, and would certainly do violence to the basic principles of co-operation."

Council President D. W. Brooks declared: "The proposed legislation would raise little revenue and is not the proper subject of a tax bill, since it is punitive and regulatory." He added: "The nation's co-operative members will obviously join in fighting this discriminatory legislation." It was noted, however, that an earlier session disclosed some minority predisposition to drop the tax-exemption privileges in order to enhance co-op public relations. President McWhorter of the National Rural Electric Co-operative Association was a panel speaker at the sessions, but his remarks were not immediately available for publication.

Exchange Calls And Gossip

CWA Stays in Illinois

THE word "nuisance" has been getting a good workout in the recently held union elections at the Illinois Bell plants. A few weeks back the AFL International Brotherhood of Electrical Workers apparently made a fairly strong bid for recognition in the scheduled election of state traffic and Chicago toll area workers. The CIO Communications Workers of America, the incumbent union, went to the superior court of Cook county and filed a suit for a quarter of a million dollars against IBEW and the Illinois Bell for some unkind things that IBEW and Illinois Bell were allegedly saying about the CWA. At that time IBEW spokesmen declared the suit to be of nuisance value for purposes of an attempt to influence the elections. Now the election is over, CWA has retained its representation, and some CWA officials consider the victory as a quieting of the IBEW nuisance from the CWA viewpoint.

There's no word now as to what the CWA is going to do about that big lawsuit but it would appear that most of the questions raised are now moot ones. CWA might have difficulty in making any of the charges stick inasmuch as they are now back in the saddle as the official representatives of this group of telephone workers.

If the suit should be followed up, however, or if the election results had been otherwise and CWA did pursue the action, the litigation presented a rather novel situation in labor law. Here was the case of one union suing another and the employing company on the grounds that the two defendants had been openly collaborating to the detriment of the plantiff union. Among other things, the CWA brief had charged that supervisory company employees had been influencing subordinates in favor of the IBEW; that IBEW had intervened in behalf of the company in a recent rate proceeding while CWA had opposed the company; and that the company had granted time off to employees for IBEW organizational meetings when the same treatment had not been extended for CWA meetings.

CWA officials explained that the matter was approached through this civil suit rather than through National Labor Relations Board channels because the NLRB would delay the election for six months. CWA officials believed that from a union standpoint, a delay would not be good because both unions would stand to lose further ground with the workers, during the interim period of waiting.

As for the election, the results were reasonably close, considering that it is always difficult for an outside union to move in on an established one. In this sense the IBEW made a rather formidable showing, which may yet have further developments. The vote was 5,948 to 4,001. Although this victory makes it four in a row for CWA (Indianapolis, Northwestern Bell, and Associated in California), the strong showing made by "Umbrella Mike" Boyle's Chicago IBEW local would indicate that IBEW has established a substantial beachhead in its fight for increased membership in the communications industry. In the Illinois Bell Company, IBEW already represents about 9,000 plant workers which insures that the ferment of rival union

representation will continue rather than die down.

More on Gambling Information

WAYNE COY, chairman of the Federal Communications Commission, recently warned a Senate committee of enforcement headaches and legal loopholes in legislation drafted by the Senate Crime Investigating Committee to throttle racing wire services to bookmakers.

In a letter to Senator Edwin C. Johnson (Democrat, Colorado), chairman of the Senate Committee on Interstate and Foreign Commerce, which was considering the three crime bills, Mr. Coy took special exception to one of the measures which would give the FCC licensing authority over transmission of betting information. The FCC chairman preferred measures as set out in a bill which died in the Senate last session which would make it a Federal crime to send gambling information by any interstate communications system.

The licensing bill would make it illegal for any person or corporation—except licensed radio stations and newspapers of general circulation—to disseminate in interstate commerce sporting results and betting information without an FCC license. Mr. Coy claimed that it would "impose a staggering administrative burden on this commission . . . which might impair its ability to carry out . . . its existing statutory responsibilities."

The Copper Shortage

THERE'S been a lot of talk about steel, or a shortage of the same, being the number one problem in the defense program. But now the prospects of a severe copper shortage are occupying the main attention of the defense mobilization chiefs. In addition to a generally tight stockpile situation, a strike of the copper workers has now thrown copper production into a critical state.

The telephone equipment producers are among the hardest hit by the situation. Formerly reliable foreign sources of supply are beginning to dry up. Chilean copper, for instance, has been coming into the country in a smaller volume, because the Chilean government is now retaining 20 per cent of the production for its own use. One of the chief reasons for the drying up of foreign supplies is the price disparity. Our ceiling prices are the foreign prices. Copper scrap is also in short supply. The flow of copper scrap has been less in 1951 than in 1950, due largely to the imposition of price ceilings and the rush to sell scrap before controls were put into effect.

Further increases in military requirements will mean less copper available in the early quarters of 1952. Copper producers may not fill any orders after October 1st, unless they bear Authorized Controlled Material ratings as authorized by the National Production Authority. The NPA Communications Equipment Division must now figure on dwindling stocks since the telephone manufacturing industry already is dependent upon current copper production to supply needs. Consideration may soon be given to the possibility of limiting the connection of new telephone subscribers, and degrading the service of connected customers in some areas.

FCC Commissioner Hennock's Appointment

IT has been some months now since President Truman sent the name of FCC Commissioner Hennock to the Senate for confirmation as a Federal district judge. On August 25th hearings were set but called off indefinitely because of the lack of a quorum of the Senate Judiciary Subcommittee handling the appointment. Several bar associations have expressed opposition to Miss Hennock's appointment and have asked for an opportunity to present testimony at the hearings. Strong support has come in, however, from distaff organizations. The New York Women's Bar Association is one. Hearings may reconvene when

Judiciary Chairman McCarran returns to Washington.

New FCC Regulation

THE FCC has issued a notice of proposed rule making. It is proposed to revise Part 51 of the commission's rules and regulations dealing with occupational classification and compensation of employees of class A and class B telephone companies.

The proposed revision comprises a rearrangement of the rules in a more logical presentation, deletes the requirement for compiling the information more than once a year, and clarifies the rules with respect to (1) classification of general officers and their assistants and (2) a class of telephone operators designated as "service assistants."

Any interested party who is of the opinion that the proposed revision should not be adopted, or should not be adopted in the manner proposed, may file a statement or brief with the FCC setting forth his comments on or before September 28, 1951. Persons favoring the revision may file statements in support thereof. Statements or briefs in reply to the original comments may be filed on or before October 12, 1951. Before taking action in the matter the commission will consider all such comments that are presented and, if any comments are submitted which appear to warrant the holding of oral arguments, the FCC will publish the time and place of such arguments.

Commission rules call for an original and fourteen copies of all statements and briefs filed, plus one extra copy for each party to the proceeding in the case of comments in reply to the original statements or briefs.

Telephone Control News

THE communications equipment division of NPA is undergoing a change in directors. Most industry men serving in the division have come for the 6-month period and hope to return to their industry positions after this tenure with the government. For approximately the last six months the affairs of the communications equipment division have been ably guided by Luther W. Hill, president of the Carolina Telephone & Telegraph Company of Tarboro, North Carolina. During that time Mr. Hill has directed the organization of the telephone industry's division and molded it into one of the most efficient of NPA industry divisions. He has staffed it with a group of competent industry men and government career personnel.

Mr. Hill leaves the group on October 1st. At that time he will be succeeded by Robert S. Williams of Automatic Electric Company of Chicago.

Mr. Williams has a long and experienced career in the telephone field in both operating and manufacturing work. At present during the interim period between September 1st and October 1st when he takes over as director, Mr. Williams is serving with the division as consultant. Mr. Williams' recent activities with Automatic Electric Company consisted of various advisory functions for Automatic's customers in the independent telephone operating field on financing, accounting, and other matters.

IN the post of deputy director of the communications equipment division there will also be a change when Warren Chase, present deputy director, returns to his post with Ohio Bell Telephone Company. Another consultant is slated to come in soon to serve with Mr. Chase so as to be completely familiar with the division at the time of Mr. Chase's return to Ohio Bell. This consultant has not yet been named. This overlapping of successive administrators is a policy which Mr. Hill has been recommending for some time. With the constant rotation it can well serve to make the wheels run more smoothly in all defense agencies where industry officials are serving on a temporary basis.

Financial News and Comment

By OWEN ELY

Annual Review of the Transit Industry

THE transit industry recently celebrated "100 Years of Transit Progress" in New York, the celebration culminating in Transit Progress Day September 24th when transit companies throughout the nation conducted special activities to mark the occasion.

At a luncheon held earlier at the Waldorf-Astoria there were lined up at the curb an old horsecar, a 1914 bus, a 1920 bus, and a modern motor coach. In the talks which followed the luncheon, Colonel Sidney H. Bingham, chairman of the New York City Board of Transportation, sketched some of the possibilities that lie ahead for transit. He described the gas turbine engine, on which much progress has been made in England; the modified trolley coach in Switzerland that gathers power from an overhead contact at intervals a few miles apart, and then operates on stored-up energy; the conveyor belt system of transportation that has been proposed for New York's 42nd street shuttle; and the possible use of compressed air for motive power in a subway system.

Discussing the industry's financial problems Colonel Bingham suggested the possibility of combining the best features of private and municipal enterprise. "Privately owned transit properties would be acquired by a city or state in return for revenue bonds issued for a specific term," he explained. "Interest and amortization and operating expenses would be met out of fares. With tax exemptions and this type of financing, total costs would probably be low enough to enable the retention of a competitive rate of fare. Direction and operation of the enterprise would remain in the hands of the existing private management with over-all control vested in a board of directors." In this connection, it might be feasible for a municipality to acquire a transit property from private owners and then lease it back for private operation, thus obtaining the tax-free feature now exploited by co-ops and some colleges.

LIKE most other industries, the transit business faces special problems due to the national defense program. Surveys were made late last year of requirements for new vehicles in 1951, and were submitted to the Defense Transport Administration. Interim relief was granted from

DEPARTMENT INDEX

copper and aluminum restrictions, permitting manufacture of several types of vehicles to proceed during the first half of 1951 about as scheduled. There was little difficulty in obtaining supplies for operation and maintenance under NPA regulations, since the industry was permitted to use DO ratings in placing orders. However, the advent July 1st of CMP (the Controlled Materials Plan) introduced a note of uncertainty. Recent sharp cutbacks in copper, steel, and aluminum, while directed mainly at consumer goods, may affect the industry somewhat, particularly with respect to the manufacture of new vehicles.

The industry has been less fortunate with respect to man-power problems, since transit was removed from the list of so-called "essential industries" issued by the Department of Commerce. The industry could not readily show that transit services were "inadequate to meet the defense and minimum civilian requirements," nor that "a serious short supply is indicated"—the two criteria which must be met for listing as an essential activity. However, the American Transit Association has made a new survey of the man-power situation and at its request a hearing in the matter was held recently. No decision has yet been handed down.

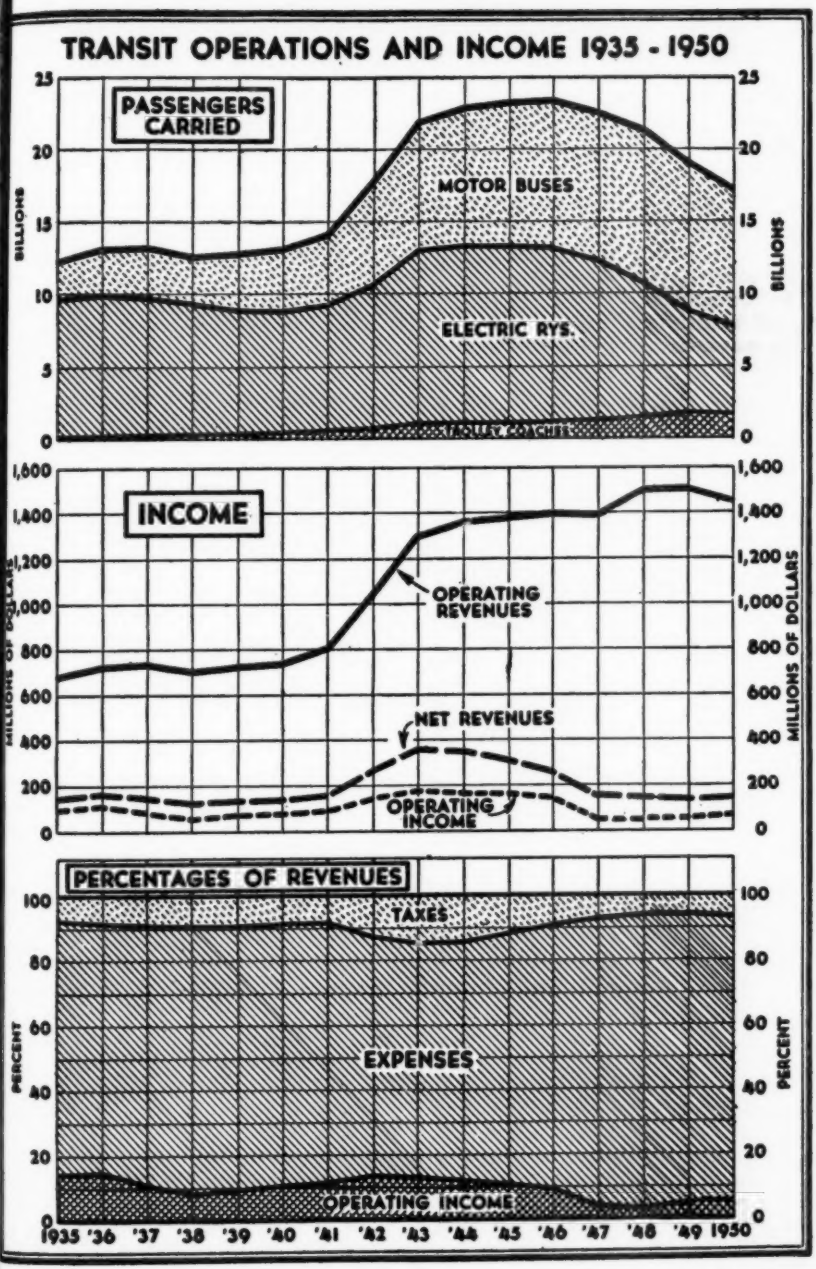
The industry is also affected by defense regulations with respect to rates and wages, but while these regulations impose some detail work on the part of the transit companies it appears unlikely that they will prove very burdensome to the industry as a whole.

WHAT changes occurred in the industry in 1950? The chart on page 439 shows the trend of traffic by years for 1939-50 and by months for the calendar year 1950 and the first seven months of 1951. It indicates a continuation (at almost the same annual rate) of the declining traffic trends which began in the smaller cities as soon as the war was over, and in larger cities a year later (1947). Thus far the defense program has not reached the stage where overtime work has come into the picture to any great extent. However, with the pr gram getting into high gear late th year or early in 1952—and with a p tential shortage of consumers goods 1952—it seems quite possible that doub and triple factory shifts may again pro a factor, unless shortages of critical m terials continue as a bottleneck in t defense program.

Of course the transit industry may n benefit to the same extent as in 1940-4 (when traffic increased some 80 per ce over the prewar level), because there now a more plentiful supply of automo biles than during the war period. But, i the event of all-out war of course, wit production of automobiles cut off, som what similar conditions might again pr vail. Eugene B. McCaul, director of t statistical department of ATA, in a r cent issue of *Passenger Transport*, t industry's weekly newspaper, point out that traffic rides in July were about per cent less than in 1950. "This declin in traffic," he pointed out, "is slightl lower than those experienced in the im mediate preceding months and this rel tively better showing is due principall to improvement in the traffic trend companies serving areas along the We coast, in many of the southern states, an in the Great Lakes region."

WHILE U. S. population increased b 10,000,000 in the postwar perio the transit industry did not benefit be cause the number of rides per capita co tinued to decline. This figure rose fro 65 in 1940 to 115 in 1945, but has sinc dropped steadily to 72 in 1950. Amon the factors to which this is attributed ar the increased number of automobiles, th spread of the 5-day workweek, th growth of television and reduced theate attendance, and the retarding effects o higher fares. A possible future offset fac tor is the increasing automobile "satura tion" in the city streets, but it is doubtfu whether this has had much effect as ye in increasing transit business.

The industry's statistical compilation covering the calendar year 1950—th *Transit Fact Book* for 1951—were re leased a few weeks ago by the America


TRANSIT OPERATIONS AND INCOME 1935 - 1950
PASSENGERS CARRIED
MOTOR BUSES
ELECTRIC RYS.
TROLLEY COACHES
BILLIONS
INCOME
OPERATING REVENUES
NET REVENUES
OPERATING INCOME
MILLIONS OF DOLLARS
PERCENTAGES OF REVENUES
TAXES
EXPENSES
OPERATING INCOME
PERCENT
1935 '36 '37 '38 '39 '40 '41 '42 '43 '44 '45 '46 '47 '48 '49 1950

Transit Association. The data were compiled from reports received from 85 per cent of the industry, including 89 electric railway companies (divided almost equally between urban and interurban), 42 urban trolley coach companies, and 1,354 urban and suburban motorbus companies.

The accompanying chart on page 437 reflects the financial trend in the industry for the period 1935-50. The 9 per cent decline in traffic in 1950 was largely offset by increased fares, since revenues dropped less than 3 per cent. The industry was able to improve its net revenues slightly, and opearting income after taxes also gained moderately.

Interim 1951 earnings figures are available for only a part of the industry. (See the accompanying table.) The results for these companies seem to show over-all improvement, although there are wide fluctuations. The figures in this table are for net income after fixed charges, while the yearly totals compiled by ATA give only the income before charges:

	Net Income (000) Six Mos. Ended June 30th		
	1951	*1950*	*1949*
Baltimore Transit	$27	D$801	$4
Chicago S.S. & S.B. ..	225	183	106
Denver Tramway	43	D117	7
Kansas City Pub. Ser. .	D73	D206	D3
Los Angeles Transit ..	298	252	476
National City Lines ..	1,188	1,228	1,228
New York City Omnibus	606	D53	—
Phila. Sub. Transit ..	79	124	138
Phila. Transportation .	1,262	237	D1,314
Portland Traction	60	75	—
Twin City Rapid Trans.	D520	D477	D174
United Transit	199	252	259
United Trac. (Albany)	72	D65	61

REGARDING transit fares, Guy C. Hecker, ATA executive manager, in an address before the Canadian Transit Association in June, stated that "fare increases in the United States are occurring with such frequency that nearly every week four to six changes are reported to association headquarters. About one-quarter of all U. S. cities of 25,000 population or more have fares in which even the reduced rate token or ticket is now over 10 cents. Cash fares of 10 cents a ranging up to 18 cents for local rides a in effect in one-half of the U. S. cities 25,000 population or over."

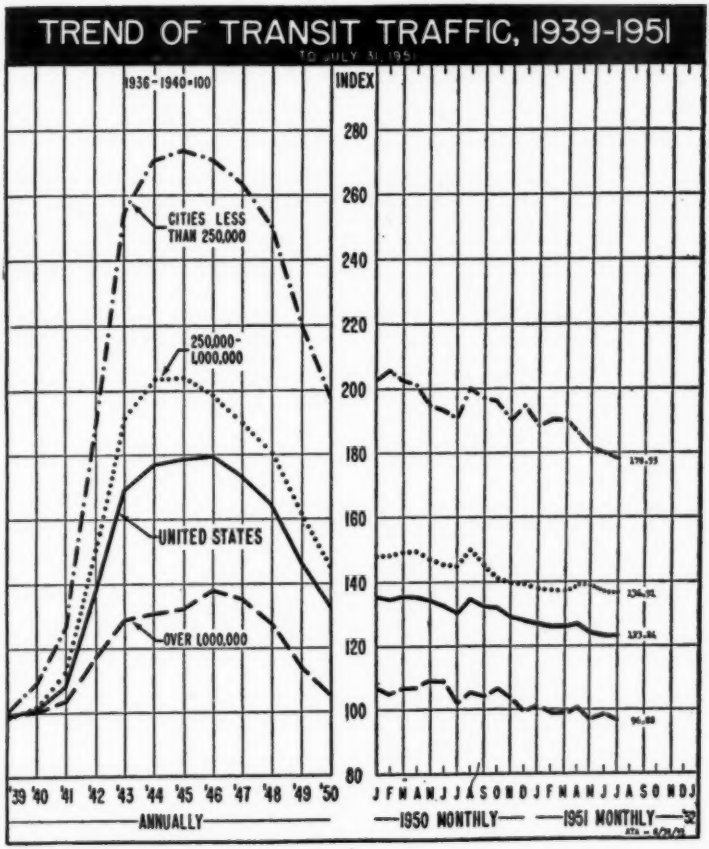
While some companies may ha reached the point of "diminishing r turns" with fare increases, the fact th prices and wages are continuing to a vance is a factor that must be reckon with. It seems probable that New Yo city will have to raise fares again ne year to pay for adoption of a 40-ho week, and Chicago is having difficulti to make ends meet with its 17-18-ce rates. In general, fares must rise wi wage rates and other inflationary factor but the retarding effect on traffic shou not be lost sight of.

Electric Utility Construction Program for 1952-53 Curtailed by Shortages

THE electric power survey committe of the Edison Electric Institute (co-operation with the manufacturers heavy electric power equipment and ele tric power systems) issued an "Interi Electric Power Survey" in July. Th ninth semiannual power survey had bee completed in April, covering the perio through 1954. The earlier report ha pointed out the dangers of shortage such as the 13,000-ton shortage (at th time) in tubing for steam generators.

The July report indicated that most the new generators scheduled for 195 will come into operation approximatel on time, but that delays of one or tw months are reported in obtaining mi cellaneous auxiliary equipment, so th at the end of the year effective capacit may be about 500,000 kilowatts short earlier estimates. However, the full brun of material shortages and other bottle necks will be felt in 1952 and later, an it was estimated that generating capacit scheduled to be in commercial operatio by the end of 1952 would be 2,000,00 kilowatts to 4,000,000 kilowatts less tha had been estimated previously.

The following figures are taken fro



able I of the report, covering orders r steam turbine generators of 10,000 lowatts and larger. They represent the dustry program, but actual deliveries 1952-53 may fall far short of these gures, according to present forecasts.

	Millions of KWH Delivered or on Order As of 4/1/51*	*As of 7/1/51*
1951	6.5	6.0
1952	9.4	9.9
1953	8.4	9.7
1954	1.2	2.4
1955	—	.1
Totals	25.5	28.1

*Includes utility and industrial orders, and bout 1,400,000 kilowatts for foreign delivery.

The report cited in detail the reasons for the present situation, such as the delay in granting DO-45 priority ratings for materials, and the later confusion over the Controlled Materials Plan, which came into effect July 1st.

Recovery in the Bond Market

AIDED by a slowdown in new corporate financing and by a continued heavy flow of savings into institutional treasuries (possibly also by the mechanics of Federal financing), the bond market has staged a sharp comeback and the new issue market has recovered from its somewhat demoralized condition of sev-

eral months ago. Only part of the lost ground has been recovered, however. Based on "Yield Yardsticks" (see table at bottom of page) the recovery has been as follows:

	Recovery From 1951 Low Price (As Percentage of Total Decline)
U. S. Long-term Bonds—Taxable	42%
Utility Bonds—Aaa	51
—Aa	56
—A	36
—Baa	37
Utility Preferred Stocks—High-grade	25
—Med.-grade	42

Southern California Gas Company's Rate Application

SOUTHERN CALIFORNIA GAS COMPANY has applied to the public utilities commission of California for a general increase in gas rates averaging about 18 per cent, estimated to yield approximately $17,000,000 annually. The case is of interest because of the excellent statistical approach. The application showed by table and chart the decline in the company's earned rate of return from 5.87 per cent at the end of last year to 4.92 per cent in July, 1951, and an estimated 4.61 per cent for the calendar year 1951. Estimated operations for a "test year," based essentially on 1951 figures with adjustments for various factors which would affect near-term results, indicate a future return of only 3.62 per cent. Th "fair rate of return" was estimated to b 6¼ per cent, required to "assure conf dence in the financial integrity of th enterprise and to enable applicant t raise the money necessary . . ."

Special risks involved in the busines which are considered a factor in rate return, include (1) temperature vari tions, (2) economic conditions, (3) in creasing unit costs due to saturation i gas usage of existing customers, and (4 the unstable character of interruptibl industrial business. The cost of commo stock money was estimated at abou 12 per cent for comparable companie (Southern California Gas is wholl owned by Pacific Lighting) and thi figure was used in calculating the over all cost of money corresponding to th fair rate of return of 6¼ per cent. Sinc the commission authorized the previou rate increase in October, 1950, it wa pointed out, there have been increases i the cost of purchased gas and in wage and taxes, and also heavier demands fo additions and betterments, some of whic do not produce additional revenues.

FOR some time Southern Californi Gas has been able to boast that it i the largest natural gas public utility com pany in the world. W. M. Jacobs, vic president of Southern California Ga Company, announced recently that th company will have added about 350,00

CURRENT YIELD YARDSTICKS

	Recent	*1951 Range High*	*1951 Range Low*	*1950 Range High*	*1950 Range Low*
U. S. Long-term Bonds—Taxable	2.57%	2.70%	2.39%	2.42%	2.15%
Utility Bonds—Aaa	2.86	3.09	2.64	2.69	2.55
—Aa	2.91	3.18	2.70	2.74	2.63
—A	3.14	3.32	2.82	2.87	2.75
—Baa	3.45	3.54	3.21	3.21	3.14
Utility Preferred Stocks—High-grade	4.03	4.10	3.77	3.82	3.70
—Medium-grade	4.36	4.48	4.19	4.25	4.13
Utility Common Stocks	5.87	6.11	5.79	6.43	5.31

Latest available Moody indexes are used for utility bonds and preferred stocks; Standard & Poor's indexes for government bonds and utility common stocks.

customers to its lines from 1946 through 1951.

He added that there are now nearly 300,000 relatively large plants and factories connected to the company lines, where gas is used for such purposes as ceramic firming, metal melting, and heat treating, dyeing, solution heating, air conditioning, etc.

In 1940 there were only about 1,000 such installations.

In the four years ending with 1950, Jacobs said, the company's plant investment was up more than $91,000,000.

FINANCIAL DATA ON DIVIDEND-PAYING ELECTRIC UTILITY STOCKS

		9/5/51 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings* Cur. Period	Share Earnings* % Increase	Price-Earn. Ratio	Div. Payout
Revenues $50,000,000 or over								
S	American Gas & Elec.	60	$3.00&Stk	5.0%	$4.41ju#	13%	13.6	68%
B	Boston Edison	46	2.80	6.1	3.00je	—	15.3	93
S	Central & South West	15	.90	6.0	1.44je	1	10.4	63
S	Cincinnati G. & E.	38	2.00	5.3	2.83je	D3	13.4	71
S	Cleveland Elec. Illum.	46	2.40	5.2	3.65je	11	12.6	66
S	Commonwealth Edison	31	1.80	5.8	2.12je	2	14.6	85
S	Consol. Edison of N. Y.	31	2.00	6.5	2.32je	D3	13.3	86
S	Consol. Gas of Balt.	25	1.40	5.6	1.74je	D7	14.4	80
S	Consumers Power	33	2.00	6.1	2.77ju	9	11.9	72
S	Detroit Edison	22	1.20	5.5	1.74ju	D3	12.6	69
C	Duke Power	87	4.75	5.5	7.29je	D16	11.9	65
S	Florida P. & L.	23	1.40	6.1	2.40je	D1	9.6	58
S	General Pub. Util.	19	1.20	6.3	1.83je	D12	10.4	66
S	Middle South Util.	19	1.20	6.3	1.73ju	5	11.0	69
S	New England Elec. System	12	.80	6.7	1.30je	D7	9.2	62
S	N. Y. State E. & G.	26	1.70	6.5	2.09ju	D8	12.4	81
S	Niagara Mohawk Power	23‡	1.40	6.0	1.93je	D6	12.2	73
S	North American	18	1.20	6.7	1.36je	D3	13.2	88
O	Northern Ind. P. S.	23	1.40	6.1	2.22ju	10	10.4	63
S	Northern States Power	10	.70	7.0	.92je	D9	10.9	76
S	Ohio Edison	33	2.00	6.1	2.79ju	3	11.8	72
S	Pacific G. & E.	34	2.00	5.9	2.02je†	D3	16.8	99
S	Penn Power & Light	27	1.60	5.9	2.34ju	1	11.5	68
S	Philadelphia Electric	29	1.50	5.2	2.08je	D4	13.9	72
S	Pub. Serv. E. & G.	24	1.60	6.7	2.06d	D8	11.6	78
S	So. Calif. Edison	34	2.00	5.9	2.78je	D2	12.2	68
S	Southern Company	12	.80	6.7	1.01ju	2	11.9	79
S	Texas Utilities	30	1.68	5.6	2.42ju	2	12.4	69
S	Virginia Elec. & Power	21	1.20	5.7	1.69ju	8	12.4	71
S	West Penn Elec.	28	2.00	7.1	3.09ju	4	9.1	65
S	Wisconsin Elec. Power	20	1.20	6.0	1.88je	—	10.6	64
	Averages			6.0%			12.2	73%
Revenues $25-$50,000,000								
S	Carolina P. & L.	34	$2.00	5.9%	$3.06ju	13%	11.1	65%
O	Central Ill. P. S.	18	1.20	6.7	1.58je	10	11.4	76
O	Connecticut L. & P.	15	.90	6.0	1.03ju	10	14.6	87
S	Columbus & S. Ohio Elec.	21	1.40	6.7	1.96je	D8	10.7	71
S	Dayton P. & L.	34	2.00	5.9	2.90je	5	11.7	69
S	Gulf States Util.	21	1.20	5.7	1.65ju	—	12.7	73
S	Houston L. & P.	19	.80	4.2	1.31ju	—	14.5	61
S	Indianapolis P. & L.	35	2.00	5.7	3.26je	25	10.7	61
S	Illinois Power	37	2.20	5.9	2.84ju	11	13.0	77
S	Kansas City P. & L.	27	1.60	5.9	2.07ju	6	13.0	77
S	Kansas Pr. & Lt.	16	1.12	7.0	1.38je	D5	11.6	81
S	Long Island Lighting	15	.80	5.3	1.17je	17	12.8	68
S	Louisville G. & E.	34	1.80	5.3	3.12je	D6	10.9	58
S	Montana Power	24	1.60	6.7	2.55ju	D8	9.4	63

	(Continued)	9/5/51 Price About	Indicated Dividend Rate	Approx. Yield	Share Earnings* Cur. Period	% Increase	Price-Earn. Ratio	Div. Pay-out
O	New England G. & E.	15	1.00	6.7	1.25ju	2	12.0	80
O	New Orleans Pub. Serv.	40	2.25	5.6	2.83my	11	14.1	80
S	Oklahoma G. & E.	21	1.30	6.2	1.74je	—	12.1	75
S	Potomac Elec. Power	14	.90	6.4	1.01je	15	13.9	89
S	Pub. Serv. of Colo.	26	1.40	5.4	2.14je	D3	12.1	65
S	Pub. Serv. of Ind.	30	1.80	6.0	2.36ju	12	12.7	76
O	Puget Sound P. & L.	17½	.80	4.6	1.75je	D6	10.0	46
S	Rochester G. & E.	33	2.24	6.8	2.72je	1	12.1	82
O	San Diego G. & E.	13	.80	6.2	1.13ju	D9	11.5	71
S	Toledo Edison	10½	.70	6.7	.90je	D15	11.7	78
O	West Penn Power	36	1.80	5.0	2.36je	21	15.3	76
	Averages			5.9%			12.2	72%
	Revenues $10-$25,000,000							
S	Atlantic City Elec.	22½	$1.30	5.8%	$1.57ju	8%	14.3	83%
C	California Elec. Pr.	7	.60	8.6	.56je	D31	12.5	107
O	Calif. Oregon Power	25	1.60	6.4	1.90ju	14	13.2	84
O	Central Ariz. L. & P.	12	.80	6.7	.96ju	D12	12.5	83
S	Central Hudson G. & E.	10	.60	6.0	.70je	—	14.3	86
O	Central Ill. E. & G.	25	1.30	5.2	2.37je	D4	10.5	55
S	Central Ill. Light	35	2.20	6.3	2.96ju	17	11.8	74
O	Central Maine Power	19	1.20	6.3	1.59ju	2	11.9	75
O	Connecticut Power	36	2.25	6.3	2.48je	D1	14.5	91
S	Delaware P. & L.	23	1.20	5.2	1.99je	14	11.6	60
S	Florida Power Corp.	18	1.20	6.7	1.38je	D9	13.0	87
C	Hartford Elec. Light	47	2.75	5.8	2.96je	3	15.9	93
S	Idaho Power	37	1.80	4.9	2.76je	D4	13.4	65
O	Interstate Power	8½	.60	7.1	.80je	D11	10.6	75
O	Iowa Electric L. & P.	14	.90	6.4	1.30ju	D13	10.8	69
O	Iowa Pub. Service	19	1.20	6.3	1.81ju	D19	10.5	66
S	Iowa-Illinois G. & E.	26	1.80	6.9	2.36je	D12	11.0	76
S	Iowa Power & Light	22	1.40	6.4	1.84m	2	12.0	76
O	Kansas Gas & Elec.	33	2.00	6.1	3.09ju	4	10.7	65
O	Kentucky Utilities	16	1.00	6.3	1.55je	31	10.3	65
S	Minnesota P. & L.	31	2.20	7.1	3.33ju	2	9.3	66
C	Mountain States Power	11	.84	7.6	1.21je	17	9.1	69
O	Otter Tail Power	21	1.50	7.1	1.86ju	D5	11.3	81
O	Pacific P. & L.	15	1.10	7.3	1.61je	10	9.3	68
O	Portland Gen. Elec.	28	1.80	6.4	2.68ju	D2	10.4	67
O	Public Service of N. H.	25	1.80	7.4	1.87ju	D3	13.4	97
S	Scranton Elec.	14	1.00	7.1	1.20ju	D6	11.7	83
S	So. Carolina E. & G.	8	.60	7.5	.58je	D39	13.8	103
S	Southern Indiana G. & E.	22	1.50	6.8	2.07ju	D5	10.6	72
O	Southwestern Pub. Ser.	16	1.12	7.0	1.27je	2	12.6	88
C	Tampa Electric	37	2.40	6.5	3.12ju	D6	11.9	77
O	United Illum.	43	2.40	5.6	2.84d	6	15.1	85
S	Utah Power & Light	28	1.80	6.4	2.71ju	7	10.3	66
O	Western Mass. Cos.	31	2.00	6.4	2.70d	2	11.5	74
O	Wisconsin P. & L.	18	1.12	6.2	1.40je	D8	12.9	80
	Averages			6.5%			12.0	77%
	Revenues $5-$10,000,000							
O	Arkansas Missouri Power	13	$1.00	7.7%	$1.53je	31%	8.5	65%
O	Central Louisiana Elec.	29	1.80	6.2	2.93je	NC	9.9	61
O	Central Vermont P. S.	11	.76	6.9	.91ju	D10	12.1	84
C	Community Pub. Ser.	12	.90	7.5	1.15je	D15	10.4	78
O	El Paso Electric	40	2.00	5.0	3.51ju	4	11.4	57
S	Empire Dist. Elec.	19	1.40	7.4	1.88je	D18	10.1	74
O	Iowa Southern Util.	17	1.20	7.1	1.75ju	D4	9.7	69
O	Lawrence G. & E.	36	2.40	6.7	3.10d	6	11.6	77

	(*Continued*)	9/5/51 Price About	Indicated Dividend Rate	Shore Earnings* Approx. Yield	Cur. Period	% Increase	Price-Earn. Ratio	Div. Pay-out
O	Lynn G. & E.	32	2.00	6.3	2.12d	9	15.1	94
O	Madison Gas & Elec.	31	1.60	5.2	2.31d	22	13.4	69
O	Northwestern P. S.	11	.80	7.3	1.29je	—	8.5	62
C	Penn Water & Power	35	2.00	5.7	2.23d	5	15.7	90
O	Pub. Ser. of New Mexico	17	1.00	5.9	1.61je	5	10.6	62
O	Rockland L. & P.	10	.60	6.0	.72je	3	13.9	84
S	St. Joseph Lt. & Pr.	21	1.50	7.1	1.97je	D2	10.7	76
O	Tide Water Power	8	.60	7.5	.90ju	D17	8.9	67
O	Tucson Gas, E. L. & P.	24	1.60	6.7	2.26je	—	10.6	62
O	Western Lt. & Tel.	23	1.60	7.0	2.18je	4	10.5	73
	Averages			6.6%			11.2	72%
	Revenues under $5,000,000							
O	Arizona Edison	19	$1.20	6.3%	$1.45je	5%	13.1	83%
O	Bangor Hydro Elec.	28	1.60	5.7	2.23je	D14	12.6	72
O	Beverly G. & E.	46	3.40	7.4	4.13d	31	11.1	82
O	Black Hills P. & L.	18	1.28	7.1	2.09a	7	8.6	61
O	Citizens Utilities	16	.90&Stk	5.6	2.12je	10	7.5	42
O	Colorado Central Power.	17	1.00	5.9	1.39je	16	12.2	72
O	Concord Electric	36	2.40	6.7	2.65d	3	13.6	91
O	Derby G. & E.	22	1.40	6.4	2.08d	8	10.6	67
O	Eastern Kansas Utils.	15½	.60	3.9	.90d	18	17.2	67
O	Fitchburg G. & E.	46	3.00	6.5	3.68d	32	12.5	82
O	Frontier Power	3	.25	8.3	.49d	20	6.1	82
O	Green Mountain Power	15	1.00	6.7	1.78je	14	8.4	56
O	Haverhill Elec.	34	3.00	8.8	3.14d	12	10.8	96
O	Lake Superior Dist. Pr.	25	1.80	7.4	2.65je	6	9.4	68
O	Lowell Elec. Lt.	45	3.55	7.9	3.96d	18	11.4	90
C	Maine Public Service	14	1.00	7.1	1.53je	8	9.2	65
O	Michigan Gas & Elec.	25	1.60	6.4	2.65je	24	9.5	60
O	Missouri Edison	10	.70	7.0	1.14je	9	8.8	61
C	Missouri Public Ser.	45	2.60	5.8	5.12d	16	8.8	51
O	Missouri Utilities	16	1.00	6.3	1.69je	3	9.5	59
O	Newport Electric	28	1.80	6.4	2.52ju	D17	11.1	71
O	Sierra Pacific Power	24	1.60	6.7	1.95ju	D6	12.3	82
O	Southern Colo. Pr.	9	.70	7.8	.88my	2	10.2	80
O	Southwestern El. Ser.	11	.80	7.3	1.29my	D7	8.5	62
O	Upper Peninsula Power	14	1.20	8.6	1.36je	D12	10.3	88
	Averages			6.8%			10.5	72%
	Averages, five groups			6.4%			11.7	74%
	Canadian Companies*							
C	Brazilian Trac. L. & P.	25	$2.00	8.0%	$4.69d	4%	5.3	43%
C	Gatineau Power	19	1.20	6.3	1.46d	2	13.0	82
C	Quebec Power	19	1.00	5.3	1.33d	9	14.3	75
C	Shawinigan Power	39	1.45	3.7	1.98d	39	19.7	73
C	Winnipeg Electric	40	2.40	6.0	2.44d	D4	16.4	82

d—December, 1950. m—March, 1951. a—April, 1951. my—May, 1951. je—June, 1951. ju—July, 1951. B—Boston exchange. C—Curb exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. E—Estimated. NC—No comparable figures available. *All twelve months' earnings comparisons have been adjusted to reflect in both periods the present number of shares outstanding. If additional common shares have been recently offered, earnings are adjusted to give effect to the offering. **While these stocks are listed on the Curb, Canadian prices are used. (Curb prices are affected by exchange rates, etc.) †Does not fully reflect $7,000,000 gas rate increase effective February 18, 1951. Earnings on *average* shares outstanding $2.23; price-earnings ratio on this basis 15.2 and dividend pay-out 90 per cent. #Earnings on *average* shares outstanding $4.88, price-earnings ratio on this basis 12.3, and dividend pay-out 61 per cent.

What Others Think

A New Transit Idea

WARNING of dire transit crises in cities throughout the country because of soaring costs and increasing traffic congestion, Colonel S. H. Bingham, chairman of New York city's Board of Transportation and an internationally known transit authority, recently offered a "formula" to assure adequate service on a sound economic basis.

Colonel Bingham described his plan as "applicable in broad outline to most cities," and said it would minimize necessity for fare increases. He announced it at a special joint meeting of the metropolitan traffic and transit committee of the Los Angeles Chamber of Commerce and the Los Angeles Transportation Club, Inc.

The Bingham "formula" involves creation of public transit corporations, separate from municipal governments, to acquire title to privately owned systems and pay for them out of revenue over long periods.

Colonel Bingham enumerated seven benefits to the municipality:

1. It ultimately would own the transit system which serves it.
2. It would acquire this system at no cost to the fare payer or taxpayer.
3. Purchase out of revenue would involve no outlay of the city's general funds.
4. This method of acquisition would not affect the city's borrowing power for other capital improvements.
5. Transit owned by a public corporation would operate on a nonprofit basis solely for the community's benefit.
6. It would be free from external pressures or restrictions.
7. The city would have assurance of continuity of this essential service.

THE autonomous public corporation under his formula would issue revenue bonds, to be redeemed over a 20-year period, to acquire privately owned lines, Colonel Bingham said. Management, he said, would be placed in competent private hands under the direction of a board of directors representing both the government and the bondholders and under regulatory control of municipal authorities.

"I think in this type of public transit corporation," Colonel Bingham declared, "we get the best features of private and public ownership. We reduce the fare burden on the rider so that transit patronage is encouraged and traffic congestion is relieved."

He also said:

> I do believe, however, that inadequate public transit is a bottleneck which throttles commerce in a city. To prove that, we need only to look out of a window from a downtown building in almost any city in the United States. But, more important, I believe public transit can be made a swift, safe, efficient, free-flowing means for moving people and goods. It can be done by the intelligent co-operation of city planners and public service operators. I have spent all my life in transit and railroading and I know that what I say is true. I want to see transit fulfill its purpose as an economic tool.

HE recalled working in the transit industry in New York city in 1915. At that time prospects were so bright for the industry that the men controlling the companies and the bankers insisted on writing a fixed 5-cent fare provision into the contract with the city because they were afraid the city would try to reduce

the fare. Bingham stated that this provision later proved to be the noose that strangled the companies.

The transit expert noted that conditions favorable to this fare soon changed, expenses mounted, the fare could not be increased, and the companies finally went into receivership. The city bought their properties and now operates them as part of the largest municipally owned transit system in the country.

Management, operation, and maintenance of this tremendous system are carried on by the Board of Transportation of the City of New York, established in 1924, with powers granted by the Rapid Transit Law of the state of New York. This rather complicated setup grew out of the long, involved history of transit in New York city.

Bingham pointed out that to talk intelligently about the future we must remember the past—thus the reference to New York city. He added that while the precise conditions that prevailed in the past will never recur, the controlling economic factors are unchanged, and the general development can be foreseen from these.

THE New York transit official then discussed the transit industry's position as a public utility. He said:

> Well, transit is one of that small group of industries classified as a public utility. That means that it is essential to the public at large; and it also apparently means that every member of that same public considers himself an expert in the business. There never has been another business more subject to study by experts and consultants of all kinds. It also means that it is subject to regulation by public bodies. . . .
>
> Regulation creates another difficulty for the industry, particularly in times of rising prices such as these. This is the lag between rising costs in the industry and offsetting fare increases.

He claimed that this lag is really a peculiar phenomenon and worthy of some analysis.

He added:

> In any other business we grumble, but are reconciled to the fact that the cost of an article or a service depends on the cost of production. When the auto workers' union wins an increase in hourly rates, and material prices rise, we expect an increase in the price of cars—and we are rarely disappointed. But when transit workers get an increase in rates, and when Federal and state taxes become more and more burdensome, and when the prices we pay for supplies go up, there is great public opposition to increase in fares. Generally the transit company has to show that it is losing money before it is granted any relief. And the relief is always delayed.

BINGHAM declared that many people simply refuse to recognize that in transit, as in any other business, the consumer must pay the cost of what he gets. He added that the belief that the transit industry can be operated by private capital without profits is apparently one of those myths that dies slowly. And perhaps an intensive campaign of public education will help kill it more quickly.

He then pointed to the realities of the transit industry; namely, its troubles:

> The most obvious such reality is, of course, the increasing use of private automobiles. . . . The private auto has had a profound effect, and a harmful one, on the transit industry. We have lost riders, particularly during the off-peak hours when we have ample capacity, and our operations have become more difficult and costly. Downtown traffic congestion and the conversion of our streets to free outdoor parking garages for private cars slow our vehicles down to a crawl. . . .
>
> Our vehicles have to compete for street space with this flood of cars.
>
> Another reality which we must face is the change in the pattern of our cities—what we roughly call decentralization. This makes our hauls

"ANYBODY KNOW WHERE WE ARE? . . . I'M NEW ON THIS ROUTE!"

longer, and we have to cover larger, more sparsely populated suburban areas. Growth of local shopping areas to serve these suburban developments has made additional cuts in our riding, again mainly during the off-peak hours.

Still another adverse factor is the change in general working conditions. The 5-day week has eliminated much of our Saturday business. Long vacations and more holidays cut our riding further. The general equalization of working hours and shifts, for all workers—in the factories as well as in offices—has made our rush hours more concentrated than ever.

THE transit expert summed these up by stating that what all of these factors add up to is a trend of less riding on mass transit vehicles with the greatest loss during off-peak hours; increasing concentration of our business into two rush hours five days each week; and a slowdown of operation during these peak periods because of street congestion.

He continued that this means that the industry needs as many or more vehicles

than ever before to meet shortening peak-load periods; two full shifts of workers to man all these vehicles for only two short periods each day; and the shops to maintain them and the space to store them. He went on to say that the industry makes full use of all of this equipment to its full capacity for perhaps twenty to twenty-five hours each week. During the rest of the time half or more of the equipment is idle. But overhead and capital charges and depreciation go on all the time, based on all this equipment.

He also touched on labor problems, noting that labor in the transit industry has made tremendous improvements in rates of pay and working conditions in the recent past. He added that the riders and regulatory officials must understand that these costs must be paid for.

He then showed to what extent the transit industry, like many industries, has overcome adverse developments by greater mechanization and making use of technological advances to reduce man-power requirements. It has done this: (1) by improving vehicles and methods to reduce maintenance and operating requirements; and (2) by increasing the size of vehicles so that one man and one vehicle can handle more passengers. Bingham then said that he did not foresee any radical improvements along these lines in the immediate future. He added that in so far as vehicles are concerned the industry has pretty nearly reached the size limit for city operation, although we shall probably see busses powered by gas turbine engines in five or more years. He then stated:

> What does this all add up to?
>
> It adds up to a picture of an essential industry faced with rising costs in a falling market; and confronted with the ever-growing competition of the private automobile.
>
> Fare increases help us to a point. Beyond that point, however, the industry prices itself out of the market.
>
> What other solution is there, not only for the industry but for the community which has a very real stake in this problem? The increased use of private cars and resulting traffic congestion is a major problem of the transit industry and the municipality. It will be relieved but not solved entirely by more superhighways, central parking garages, and similar projects which are expensive and slow in coming.

Bingham asserted that the traffic problem is affecting the stability of our cities. It is causing a decentralization which, if carried far enough, will seriously threaten the values of our older central areas. As a result, municipal tax income will diminish because the value of properties in the downtown areas will be reduced. Yet costs will rise. The growth of the peripheral areas creates additional requirements for municipal services at the same time that deterioration of valuable older central areas impairs our cities' ability to pay for these needed improvements.

The transit official went on:

> I am not thinking only of road building and the extension of transit services, although that is essential and costly.
>
> I am thinking also of the great expense of extending sewerage systems, of policing outlying areas, of building and staffing new schools, and providing all the other municipal services. If a city expands normally, it can assume these added burdens. But it cannot if it expands by leaving huge blighted areas at its core. Traffic congestion will create blighted areas in the hearts of our cities because business will move to more accessible districts.
>
> Some students of government and history believe that our cities will eventually destroy themselves by this strangulation induced by traffic congestion and other urban difficulties arising from the concentration of people.
>
> I don't believe this, nor do any of

"HE DIDN'T PAY HIS FARE EITHER, OFFICER!"

you, I'm sure. Our cities have shown tremendous vitality. There is a steady increase in the number and proportion of people living in our cities. The attractions of urban life have so far outweighed the disadvantages.

BINGHAM then offered some suggestions for the future. He urged that in all new construction we should insist that commercial and industrial structures provide off-the-street delivery and parking areas. Similarly, large-scale apartment housing developments should contain sufficient garage spaces. Any changes in location or approaches to traffic generators, such as airports or railroad terminals, must be carefully planned to reduce traffic congestion.

Bingham then made the following proposal:

> For immediate relief I think our cities must look to their mass transit systems. For the very largest cities, those that are most centralized and congested, some form of off-the-street transit is required—for example, subways. In all but these few cities the modern bus is the answer. It is at least twenty times more efficient in its use of street space than the private automobile. I have stated on another occasion that if traffic congestion increases it may eventually become necessary to bar private automobiles from the congested streets in the heart of our cities. We do not have to do that yet, but we must restore these streets to their primary function of channels for the movement of traffic. They are not parking areas. Unessential vehicles that cannot be accommodated in off-the-street parking areas must not be permitted to park on the streets. Transit vehicles do not need central parking space; they keep moving.

He claimed that if we eliminated this parking and reduced unessential private car traffic we would free our streets and speed up the flow of people and the necessary commercial vehicle activities of pickup and delivery of goods. Transit vehicles would then move freely and rapidly and offer a much better service.

The transit expert declared that to get these benefits for a city from mass transit you need a healthy transit system, offering rapid, frequent service, in attractive modern vehicles at a competitive rate of fare. The city must help the transit company to achieve this by clearing as many parked cars as possible off its routes, by responding to the needs of the company for adequate revenues, and by not imposing needlessly burdensome taxes on an industry which is rendering an essential service.

In the event that private companies can not accomplish these desirable improvements, Bingham then called for a broader community interest approach. He proposed for the first time what he called: *A new type of government business entity.* He described it as a new kind of public transit corporation which, for want of a title, could be termed "City Transit Corporation." It would combine the best features of private and municipal enterprise. It would retain the efficiency of operation known in the best competitive industry and the financial and other advantages of community operation. He added:

> This corporation would acquire the facilities and equipment of the existing private transit company or companies in its city through an exchange of revenue bonds for the physical assets and property. I shall go into this in greater detail later, but I should like to point out here that in this way the private transit line is acquired with no outlay of municipal funds and with no strain on municipal borrowing power. It is paid for out of earnings.
>
> One of the principal benefits under my formula would be freedom of the public corporation from burdensome state and Federal taxes which have been a large factor in the financial problem of the private companies. Without additional fare increases or use of funds from other sources, I believe this essential service can be made readily available under public ownership in most cities and attractive enough to aid in the reduction of traffic problems. In cities where more than one local transit company operates, acquisition by the public transit corporation would permit elimination of wasteful competitive routes, and coordination of all mass transit facilities to give the public the best possible service.

As to the method of acquisition, Bingham maintained that a city should acquire privately owned transit properties in return for revenue bonds issued for a term of, say, twenty years. There will be negotiation on the purchase price

which will depend upon conditions in each city and the book values of the physical assets involved. Purchase prices for some transit properties in the past have ranged between once and twice the gross annual income.

He proposed that the bonds would be issued by this public transit corporation which would not be a part of the regular city government. Payment of interest and amortization of these bonds would be assured by a requirement that the fare should be sufficient to pay operating expenses and debt service. Since the transit property run by this public transit corporation would be tax exempt, the likelihood of the necessity for an increased fare to meet the obligations would be small.

The transit official believed that it would be necessary to adopt this procedure because few cities these days have free borrowing power sufficient for the acquisition of a transit system. With tax exemption on the transit property and a 20-year amortization period for the bonds, "transit operation could produce sufficient revenue at a reasonable fare."

ON the subject of management, Colonel Bingham made the following proposal:

> It is essential that management be businesslike. Therefore, my formula proposes a corporate form rather than merely establishing another city department.
>
> The over-all direction of this public transit corporation would be in the hands of a board of directors with government and bondholder representation. These directors should be men outstanding in the community, accustomed to the operation of a business enterprise.
>
> The day-to-day operations and management control under my formula would remain in the hands of present management of the private companies —provided, of course, that the balance sheet and operating statement of existing management show it to be successful and alert to its responsibilities.
>
> The management would be given authority to run the property in the most efficient manner possible, but complete regulatory control would be vested in the city. This would divorce transit operation from the red tape of government and civil service. It would be run as are the most progressive private enterprises.

The transit expert concluded that he thinks this type of public transit corporation would combine the best features of both private and public ownership. The fare burden on the rider would be reduced so that transit patronage would be encouraged, and traffic congestion relieved.

"IT is no solace to observe the troubles of other nations who have listened to these theorists, whether they came from the Karl Marx school on Continental Europe or from John Keynes' teaching in England.

"We watch with grave concern the present course of England under the socialistic experiments, and we hope and pray that she may survive.

"If she could recover her former ability to think clearly on economic matters, re-establish free enterprise, and balance her budget, England might save us from some of the mistakes that we will make if we follow her present course."

—WILLIAM A. MARCUS,
Senior vice president, American Trust Company.

The March of Events

In General

Most Transit Legislative Proposals Rejected

PROPOSALS affecting the regulation of local bus, streetcar, and other transit facilities were introduced in a number of state legislatures throughout the country this year, a recent survey discloses, but few of the measures got on the statute books.

In one of the comparatively few significant enactments in this field, the Wisconsin legislature approved a bill intended to make the Milwaukee metropolitan transit authority act of 1949 more effective. Income earned by the authority and the property it owns would both be exempted from state taxation, under the amended act, but the authority would be required to pay the state certain sums in lieu of property taxes.

The amended Wisconsin act also includes provision which would permit the authority to operate freight and express business incidental to passenger service, but not exclusively.

Before an authority could be established in the metropolitan Milwaukee area, the law provides that referendums would have to be held in all of the communities within its scope of activities approving its creation. If the voters rejected the authority in any community, it would not be permitted to operate there.

Governor Lausche vetoed an Ohio bill which would have permitted local transit companies to appeal fare disputes direct to the state utilities commission. Pointing out that such rate controversies in Ohio have been matters for local negotiations between the cities and officials of the transportation companies, Lausche assailed the proposed change to state control as a special benefit for certain utility concerns and "not in the public interest."

Unsuccessfully introduced in the Missouri legislature was a bill which would give cities rather than the state public service commission the right to regulate busses and streetcars.

Minnesota's legislature rejected a bill which would have abolished the state railroad and warehouse commission's power to set streetcar and bus fares in the Twin Cities and Duluth. Also killed by the Minnesota lawmakers was a resolution proposing the creation of a legislative interim committee to investigate streetcar and bus fares in the Twin Cities and Duluth.

The Colorado legislature approved for submission to the voters at the next general election a proposed state constitutional amendment to bring all privately owned public utilities operating in the state, including transit firms, under the jurisdiction of the state public utilities commission. The proposal is designed to remove controversy between municipalities and the state commission as to jurisdiction in the control of utility rates.

Governor Driscoll vetoed a New Jersey bill which would have enabled the state public utilities commission to fix rates for bus operators on the basis of an operating ratio, which would guarantee them a clear profit from 5 to 10 per cent after operating deductions. The bill was introduced after the state supreme court, in a case involving fares of Public Service Company busses, held that bus operators must establish a rate base.

Objective of the proposed New Jersey legislation was to provide an alternative

method for small companies that do not have sufficient investment to enable them to establish a basis. In its final form, however, the legislation did not exempt Public Service, and there was a possibility that the large utility firm could qualify for an income based on operating ratio.

New York state lawmakers enacted a bill expected to bring the state an estimated $500,000 a year in additional revenue by making interstate bus lines subject to the state's existing 2 per cent utility tax on gross receipts for the mileage they travel within the state. Governor Dewey vetoed another New York state bill, however, which would have cost the state about $2,000,000 by exempting from this tax all intrastate bus lines. The vetoed bill also would have freed the intrastate bus lines from a similar 1 per cent tax levied by some cities and villages.

Rhode Island's legislature failed to pass a resolution proposing the creation of an interim committee to study transportation facilities in the state.

Governor Talmadge vetoed a Georgia bill which would have brought taxicabs under state public service commission regulation.

New Plea Made to SEC

AMERICAN POWER & LIGHT COMPANY, formerly a subholding company in the Electric Bond and Share Company system, petitioned the Securities and Exchange Commission recently for an order to EB&S to divest itself of its common stock holdings in AP&L.

This marks another step in the protracted controversy between American Power & Light's management, headed by Howard L. Aller, president, and EB&S over ultimate disposition of Washington Water Power Company, American's prize operating utility in the Pacific Northwest.

American Power has been attempting to sell the Washington company to public power interests in the Pacific Northwest, but has been opposed by various stockholders, including EB&S, the state regulatory commissions of Washington and Idaho, and the Governor of Idaho, Len Jordan.

In its recent petition to the SEC, American Power declared that EB&S "is endeavoring to control the course of American's liquidation and is holding American's stock in defiance of its commitment" (to dispose of the stock within one year after American's reorganization in February, 1950).

Bond and Share, which at one time owned 30 per cent of American Power stock, currently holds only 183,050 common shares, or 7.8 per cent of the total outstanding.

American Power, in its petition, urged the SEC to require Bond and Share immediately to distribute American's stock to Bond and Share stockholders and alleged that "no benefit will flow to Bond and Share's stockholders from retention by Bond and Share of its holdings of American's stock for a single additional day."

California

To Purchase Transit Lines

THE city of Santa Monica was recently reported ready to purchase the personal property of Bay Cities Transit Company for $215,000 and merge the firm's bus lines with the municipally operated transit lines.

Bay Cities Transit had been on strike since August 8th. The company's services were expected to be in operation again by September 10th, if the city should take over by then. Under a plan approved by the state public utilities commission, Santa Monica will acquire Bay Cities' 73 busses, together with parts and equipment of its shop and office. The purchase agreement also includes a 10-year lease option which allows the city to purchase the firm's real property for $135,000.

Santa Monica expected to retain about a hundred of the bus firm's 138 employees if they can qualify under civil service requirements.

Florida

Rate Increase Application Filed

THE Florida Power Corporation early this month asked the state utilities commission to wipe out the rate reduction that was ordered by a local Pinellas board and upheld in circuit court. It was the first application for a power rate increase the state agency has received since the 1951 legislature gave it the power to regulate private gas and electric companies.

The power company asked the state board to put its Pinellas county rates back on the original basis and to allow certain billing adjustments that would permit increases whenever fuel oil costs and the U. S. Department of Commerce consumers' commodity index go up.

Rates in the other 30 counties in which the company operates would not be affected.

A statement submitted by the company showed that if the application should be granted the Pinellas county residential and commercial customers of the firm would have to pay $1,217,000 more a year for their power. Of that, the power company would get $634,000, the Federal government would take $517,000 in income taxes, and the state would get $66,000 in utilities gross receipts taxes.

The company said its net operating income for the twelve months ending June 30, 1951, was $3,322,977 compared with $3,496,446 in the 12-month period ending December 31, 1950. Return dropped from 5.67 to 4.63 per cent in the same period.

Kentucky

REA Acts to Settle Dispute

THE Rural Electrification Administration in Kentucky has made a move to bring about a peace settlement in its power expansion fight with the Kentucky Utilities Company.

The East Kentucky Rural Electric Cooperative Corporation, which is building a $30,000,000 generating plant in Clark county, has withdrawn its protest against the KU expansion plan at its Green river plant in Muhlenberg county. The withdrawal was made at the state public service commission's office early this month.

The president of East Kentucky urged KU to drop its protest against the Clark county project. In exchange for that, the co-operative will drop its court complaint against KU's build-up plan at Tyrone. As soon as the protests are withdrawn, REA and KU can get to work and provide the power needed by Kentuckians, the co-operative's president said.

Massachusetts

Utility Tax Law Signed

GOVERNOR Dever last month signed into state law a bill designed to produce $1,800,000 in additional annual revenue by repealing the state's franchise tax on public utilities and substituting a 4 per cent levy on net earnings of utilities before Federal income tax payments.

When the measure was before the state legislature, it was said that its effect would be to reduce the amount of Federal income tax payments by the utilities in favor of the state of Massachusetts.

New York

Increased Subway Fare Weighed

THE prospect of a 15-cent fare on city-operated transit lines by July 1st next loomed early this month as the New York City Board of Transportation reported a deficit of $3,067,519 for the fiscal year ending June 30th.

The board is faced with an additional $30,000,000 expense by next July as the cost of putting its employees on a 40-hour week.

The possibility of increasing the fare from 10 to 15 cents has been under consideration by the city administration and it was understood an appeal would be made to the legislature in January to change the transit law to permit a fare boost before next July, the date for any change in rates now fixed by law.

The subway fares were boosted from 5 to 10 cents on July 1, 1948, and surface line fares went to 10 cents on July 1, 1950.

Writ Upsets Submetering Curb

A TEMPORARY injunction was issued recently to the Londa Realty Corporation, one of the companies that resells electricity purchased from Consolidated Edison Company, leaving the question of whether 46,500 tenants in Manhattan and the Bronx are to continue to buy electricity at "retail" from their landlords or directly from Consolidated Edison unsettled.

At present these tenants receive current through submetering, a process by which landlords buy the power "wholesale" from Consolidated and then resell it to the tenants without controls such as are exercised by the state public service commission. A commission order of July 26th directed Consolidated Edison to end this residential submetering practice as of August 31st.

The injunction arose from the fact that the Londa Corporation had appealed a decision made on June 15th by Supreme Court Justice Schirick of Kingston. At that time the Consolidated Edison Company was under a commission order to end submetering by June 30th. The commission later postponed this until August 31st. Justice Schirick had refused to grant to the Londa Corporation an injunction restraining Consolidated Edison from ending the 25-year-old practice. The Londa Corporation appealed, and Justice Heffernan of the appellate division issued his injunction.

Gas Rate Cut Approved

THE state public service commission recently approved an application of Consolidated Edison Company of New York to reduce gas rates in Westchester county by about $2,200,000 annually.

The reduction, which will equalize gas rates throughout the county, will affect 170,000 customers in the first regular meter-reading period after September 30th.

The commission said the new rates will result in an average saving of 20 per cent, under present rates for domestic cooking and water heating. The cut was estimated at 10 per cent for home heating and 19 per cent on commercial and industrial rates.

Oregon

Ask Temporary Hikes

THREE large Oregon power companies recently asked for temporary electric rate increases to offset the expected additional cost of steam-generated power next winter.

The companies, Portland General Electric, Pacific Power & Light, and Mountain States Power, told public utilities Commissioner Flagg that they want temporary surcharges of 5 to 25 per cent, according to how much extra steam generation is needed.

They estimated the power companies of Washington and Oregon would have to spend $5,000,000 extra for steam generation this winter because of the huge demand for power and the production that stream flow will be so low that hydroelectric plants will be putting out less power than usual.

The companies said that Pacific Power & Light, Puget Sound Power & Light, and Washington Water Power Company would file requests in Washington.

Pennsylvania

Files Higher Electric Rates

PENNSYLVANIA POWER & LIGHT COMPANY filed new schedules with the state public utility commission recently seeking higher electric power rates to its large commercial, industrial, and resale customers. The new rates would become effective November 12th.

Also included in the filing was a revised fuel adjustment clause applicable to the same class of customers. While the newly revised clause is lower than the two now in effect, the net result of the new rates and the revised clause will bring in about $2,730,000 more revenue annually, Charles E. Oakes, president, said.

The company introduced a fuel adjustment clause affecting most of its large power users for the first time in 1948. Similar clauses have been in effect among other power suppliers of the nation for many years. However, basic rates for Pennsylvania Power & Light's large power users have not been increased since they were put into effect in 1939, Mr. Oakes said.

Busses Replace Trolleys

BUSSES costing $400,000 were put into service early this month to replace trolley cars on the Liberty Bell Line of the Lehigh Valley Transit Company between Norristown and Allentown, Pennsylvania.

Permission to make the change was granted by the state public utility commission.

A spokesman for the utility commission said the transit company could use the busses for the next four months pending final disposition of its application for permanent use.

Last November the Lehigh Valley line filed an application for the change and immediately began buying the necessary motor equipment.

Meanwhile, all employees who operated trolley cars have been transferred to the bus service, with the company training the men to become bus operators in a special school.

Plans also are under way for the removal of overhead wires and trolley tracks.

Rhode Island

Requests Rate Hike

THE Providence Gas Company is seeking a permanent rate increase which would cost the average customer approximately 75 cents a month. Citing increased costs of labor and materials and increases in taxation, the company filed a tariff recently with Thomas A. Kennelly, public utilities administrator, calling for an 18 per cent jump in rates, including an immediate emergency boost of 9 per cent. It estimated the permanent increase at 2½ cents a day for average consumers.

Kennelly took the case under advisement and will later suspend the rate schedule and fix a date for hearing. Under state law, the higher rates would take effect in thirty days unless the administrator issued an order suspending them.

Progress of Regulation

Probable Higher Income Tax Rate Used in Rate Case

THE Utah commission, in allowing a telephone company a rate increase, provided for Federal income taxes on the 52 per cent rate stated in the new tax bill pending before Congress rather than the present 47 per cent rate. The commission said that since the change in the rate was "fairly certain," a determination of revenue requirements should be based on the higher rate.

The company's service up to the time of the hearing had not been satisfactory. The commission said that if the disposition of the application were to be determined solely on the basis of the service provided, the application should be denied in its entirety.

A request by 4-party and rural-line subscribers that no part of the increase be applied to them because of the poor quality of their service was denied. Granting of the request would place an additional rate burden on other classes and would be unjustly discriminatory. The commission, however, agreed that the increase applied to these classes should be held to a minimum because of the inferior quality of service.

The commission commented that both the company and party-line users have an obligation in regard to this type of service. Subscribers should show consideration for other parties on their line by eliminating unnecessary calls and reducing the duration of each call. The company, upon receiving complaints about party lines being tied up, should increase its efforts to obtain full compliance with a regulation which reserves to it the right to limit the duration of a local message on a party line or to discontinue the service of a subscriber abusing party-line privileges.

License contract payments by the company to its parent of one per cent of gross revenues were not considered unreasonable where the fee paid did not appear to exceed the cost of the various services rendered by the parent company under the contract.

The commission used the NARUC Separations Manual for apportioning the company's plant investment, revenues, and expenses between its intrastate and interstate operations but did not officially adopt the manual.

The company's request that the commission include in its rate base an item called "current level increment" was denied. This item was described in general terms as an amount necessary to keep the return at a level found reasonable in an earlier rate proceeding in the face of rising prices. The company's justification for its request can be found in this statement:

> . . . that during a period of active plant construction and replacement, the rate of return actually earned during a period subsequent to the establishment of a new level of telephone rates tends to decline with the passage of time, and that the allowable return predicated entirely upon a past test period rate base will not be earned in the future under these conditions unless some compensating factor is provided.

The commission did not include this item in the rate base because of the many uncertainties involved in its computation, but it was given consideration in the company's return allowance.

After determining that a return of 6 per cent would be reasonable, the commission increased its allowance to 6.25 per cent to provide for the so-called current cost increment that was requested.

Finally, the commission instructed the utility to control carefully the amount expended for advertising and dues so that no expenditures would be made in these categories except those reasonably necessary to serve the public fully. *Re Mountain States Teleph. & Teleg. Co. Case No. 3596, Aug. 10, 1951.*

Depreciation of Leased Property Based on Remaining Physical Life in Absence of Arm's-length Bargaining

THE New York commission based accrued depreciation of improvements to leasehold property on their remaining physical life rather than on the terms of a lease between two affiliates, in view of the lack of arm's-length bargaining. A transit company had converted a former car barn to a bus garage after substituting busses for streetcars. This involved remodeling and improvement. The barn was owned by a realty corporation and leased to the transit company. Both companies had common officers and directors, with essentially the same stockholders. The commission said they should be considered as under common ownership.

Errors in accounting were also considered in the light of this lack of arm's-length bargaining. The cost of certain improvements to the garage had been charged in previous years to expenses. It was proposed to include this amount in "Omnibus Property in Service" with an offsetting credit to Reserve for Depreciation for depreciation accrued to a specified date as computed on the basis of the remaining life of the improvements up to the expiration of the existing lease. The balance was to be credited to Earned Surplus.

The commission pointed out that it has repeatedly held that accounting errors should be corrected whenever discovered regardless of the effect on other accounts. It said that its position with respect to this subject should not be confused with situations where management has a choice as to whether it will capitalize or charge to expenses given items of expenditure which, under sound accounting practice, might be either an item of expense or of fixed capital. In those situations company policy would govern. The commission held, however, that when accounting errors are made, even as a result of management policy, the necessary corrections should be made.

The initial hearings in this proceeding had to do with the assessment of costs of the proceeding. The transit company contended that the commission had no jurisdiction to assess the costs on the company, inasmuch as it was under the jurisdiction of the former transit commission when the Public Service Law was passed. The commission said that this question had been decided in favor of the commission by the New York Supreme Court in another proceeding. *Re Queens-Nassau Transit Lines, Inc. Case 11824, June 27, 1951.*

Union's Protest against Bus Discontinuance Overruled

A BUS line's application for authority to discontinue service over a section of its route which had been served at an operating loss was approved by the Pennsylvania commission. The commission considered the fact that at the same time it was approving service by another carrier to take the place of the discontinued operation.

A motion by an employees' union that

the commission withhold approval of the discontinuance "unless some provision is made for employment elsewhere in the system for employees who might be displaced or laid off by reason thereof" was denied. Relations between a carrier and its employees unrelated to the rendition of service, the commission ruled, are not within the scope of its jurisdiction. *Re Laurel Line Transp. Co. Application Docket No. 12086, Folder 13, Am-B, July 30, 1951.*

Judge Not to Interfere with Commission-approved Rate

THE supreme court of Indiana permanently restrained a lower court judge from interfering with a transit company's enforcement of provisions of a new rate approved by the commission. The court pointed out that the parties alleging that a transit company was acting improperly should have exhausted all remedies before the commission before taking court action.

The court overruled an objection to the commission order which might have given the lower court authority on constitutional grounds. This objection was based on the fact that no notice had been given the public of the proposed rate increase. Due process of law, the court said, does not, in the absence of a specific statutory or constitutional requirement, require hearing and notice before new rates can be put into effect.

The court's conclusion that the lower court judge had exceeded his authority was based on a state statute giving exclusive rate power to the commission. His action in effect set the rates which the carrier could charge and clashed directly with the statute. *State ex rel. Evansville City Coach Lines, Inc. v. Rawlings et al. 99 NE2d 597.*

Intercity Zone Fares Disapproved

A TRANSIT company whose net return exceeded 6 per cent was denied authority by the Louisiana commission to increase rates by instituting an intercity zone system. The order was made without prejudice so that the company could later refile its application when a more accurate determination could be made of an apparent downward trend in net operating revenues.

The chief difference between the company and the commission's staff was in the determination of operating expense. The company regarded interest on borrowed capital as such an expense, but the commission said it could not be so regarded for rate-making purposes.

The company showed its plant and reserve for depreciation on a basis of purchase cost of the property as a going concern, with arbitrary allocations of cost to the various items of equipment. The cost of plant, when first devoted to public use, represents the most acceptable value for rate-making purposes, said the commission. The company's depreciation reserve requirements, the commission decided, should be based on annual accruals at a reasonable rate, which for motor coaches involved in this proceeding was 10 per cent per annum from the date first placed in operation. *Ex Parte Westside Transit Lines, Inc. No. 5652, Order No. 5771, June 18, 1951.*

Revenue from Proposed Bus Extension a Secondary Consideration

THE Missouri commission ordered a transit company to extend service into a suburban area even though it could be done only at a continuing operating loss, where the area involved appeared to be in need of and entitled to

reasonable transportation service. The commission pointed out that the major consideration is public need and that the profit or loss involved in making the extension of service is a secondary consideration.

Commissioner Williams filed a vigorous dissenting opinion in which he said that "to order service into an area when the evidence shows that the revenue from patronage therefrom will not even pay 'out-of-pocket' costs is not sound economically or just to the company or the public." *Residents of McKenzie Hills v. St. Louis Pub. Service Co. Case No. 12,137, May 28, 1951.*

Nevada Commission Disagrees with NARUC Separations Manual

THE Nevada commission, in denying a proposed telephone rate increase, said that it was not in agreement with the provisions of the NARUC Separations Manual. Nevada was said to be a "bridge state," over which the parent company of the Bell Telephone Company of Nevada has built and operates an elaborate system of communications between the populous east and the west coast areas, with incident service to the few communities along its lines in Nevada, utilizing only a small part of the whole as a special outlay for the service of Nevada.

The commission believed that the parent company could exist and pay a substantial profit without any Nevada connection. If a more correct and true separation were devised, the profits of the company would be much greater, according to the commission, but it had no direct control over this separation.

The local telephone company stated that for the previous year the intrastate operating results showed a net return of 4 per cent. It claimed that this was not sufficient and would not attract capital or maintain credit standing. It was not adequate to maintain a strong telephone company, which is a vital necessity in times of national emergency, according to the company. The commission said that the rate of return was more than 4 per cent for that year and would, in fact, be greater when certain necessary accounting changes had been considered.

The commission believed that a better separation procedure by which more capital, and also operation and maintenance, would be allocated to interstate operations, would undoubtedly show still greater profits. The changes, it said, could be effected by the parent company. The statement that the rate of return was not sufficient to attract capital was considered completely out of line, since the top parent company of the telephone system had recently declared its greatest 12-month profit in its history.

In time of national emergency or war, every business and every individual in the nation will be called upon to make sacrifices and submit to lessened earnings, the commission said. Despite this, it believed that the company was insisting on full investment return and urging that it could not properly serve the country at such times unless it got a full return. The commission believed that the telephone company had ample resources and that, since it was fully protected by the state against competition, it should be willing to take a cut in earnings along with other businesses.

The commission described the framework of the telephone interests in detail and said:

> This commission is well aware of the fact that it has no control of the activities of the Pacific Telephone & Telegraph Company—the in-between parent of Nevada Bell—but "the parent company cannot dismember the corpse." The Bell of Nevada is still part of the PT&T system, and as a public utility cannot discontinue service or unduly increase its rates for service because for a time a public area is not as profitable as other areas which it serves.

Re Bell Teleph. Co. I & S Docket No. 117, June 25, 1951.

Payment of Interest on Deferred Interest Allowed in Holding Company Dissolution

THE Securities and Exchange Commission directed the distribution of escrow funds to holders of the debentures of a holding company. The funds represented interest on partial instalments of interest which had become due after maturity of the debentures. Payment of interest on overdue instalments of interest was held to be required by an indenture provision and enforceable under state law.

The holding company debentures had been issued pursuant to an indenture of trust. Under its terms, interest was payable semiannually until the principal was fully paid. Attached to the debentures were detachable coupons, one for each of the interest payment dates until the maturity date. All coupons had been paid without default. The principal of the debentures had not been paid at maturity. Interest instalments due after the maturity date of the debentures had not been paid in full. Subsequently a court had ordered the payment of the overdue instalments of interest, and the present case arose as the result of a demand that the indenture trustee pay interest on the overdue interest.

One group claimed that the terms of the trust indenture must be construed as expressly requiring payment of such interest, but another group construed the indenture as providing for interest on interest only with respect to the instalments of interest represented by coupons, that is, those instalments which became due at or prior to the maturity date.

The commission concluded that the indenture contained an express covenant by the company to pay interest on overdue instalments of interest whether coming due before or after maturity. It held that no distinction was made in the applicable provision of the trust indenture, so far as the obligation to pay interest on interest was concerned, between a default in payment of interest before maturity and a default after maturity.

Interest on interest has been allowed under state law without any express agreement where equity and justice required its payment. The covenant in the trust indenture would be enforceable under state law. Payment of interest on interest was also considered fair and equitable under § 11(d) of the Holding Company Act. The commission noted that whether or not the holding company was insolvent at the time the proceedings began, it was now solvent and its assets were sufficient to satisfy all creditor claims.

This payment would reduce only the participation of the stockholders. Consequently, payment to the creditors rather than to the stockholders was required by basic considerations of fairness and equity. *Re International Hydro-Electric System, File Nos. 59-14, 54-159, 54-160, 54-162, 54-164, Release No. 10642, June 29, 1951.*

Costs Incident to Additional Street-lighting Investment to Be Borne by Municipalities Requiring it

CITIES and towns which require an excess investment in street-lighting equipment should pay electric rates to cover the additional cost, says the Massachusetts Department of Public Utilities. The street-lighting load applies within a given area and only to one customer within that area. There is a constant load factor and the equipment is owned by the company. The fact that the cost is borne by municipal taxpayers instead of general domestic users, who may or may not be the same persons, is not a consideration.

The company, in order to satisfy the requirement that it must prove not only that the increase was justified as to the particular service affected, but also that its over-all operations required additional revenue to realize a fair return, set

forth the estimated increases in operating costs and taxes for its entire plant. The proposed rates would increase the return from 5.3 to 5.4 per cent, which the commission held not to be unreasonable. Consideration was also given to the company's large expansion financing. Its debt ratio was 45 per cent, and it was required by law to stay under 50 per cent. A substantial percentage of future issues would have to be equity securities, for the sale of which present earnings must be maintained.

The company proposed to charge rates for equipment installed after the effective date of its original tariff, which had been suspended by the commission. Notwithstanding a protest by certain municipalities, the commission held that the company's revenues should not be permanently affected because of the commission's power to suspend rates pending investigation. The municipalities appeared to have had adequate warning that equipment installed after the effective date might be subject to substantially higher rates.

One municipality complained that the proposed tariff would interfere with, or at least make more expensive, its municipal modernization program. Such a result is regrettable, but unavoidable, said the commission because the commission must permit the company to increase rates wherever costs and financial conditions demand such change. A municipality, like any other citizen living in an era of sharply increased prices, must adjust its programs and policies.

The effective date for the new rates was postponed to the first day of the coming year in view of the fact that most municipal budgets for the current year are customarily closely allocated in the middle of such year. *Re Boston Edison Co. DPU 8944, July 24, 1951.*

Other Important Rulings

THE Rhode Island Public Utility Administrator authorized a transit company to limit the number of rides on unrestricted weekly passes within certain zones and to increase the price of such passes for all zones in order to give the company a needed rate increase and to eliminate abuses which result in discriminatory treatment of pass riders at the expense of cash riders. *Re United Electric Railways Co. Docket No. 545, Aug. 10, 1951.*

The Massachusetts Department of Public Utilities expressed a preference for curtailment of transit company service to conserve resources instead of repeated applications for higher fares to increase the margin between revenues and expenses; but it decided that where public patronage is substantial and operating revenues are still insufficient to produce an adequate net income, the only possible conclusion to be drawn is that the patrons are not paying enough for the service, and authority to curtail existing service should be denied. *Re Eastern Massachusetts Street R. Co. DPU 9573, July 27, 1951.*

The Indiana commission, in denying authority to substitute a prepaid for an agency station, remarked that a railroad operating through a community and enjoying the rights of eminent domain in securing its right of way should be more responsible to the community than a concern engaged in a private line of business and should keep this factor in mind in requesting discontinuance of agency stations which are not quite as profitable as others. *Re New York Central R. Co. No. 21672, July 12, 1951.*

The United States Court of Appeals held that a motor carrier certificate that authorized service to intermediate and off-route points of an area through which the carrier had two authorized regular routes did not authorize the carrier to classify on-route points of one regular route as an off-route point for a regular route 200 miles away and institute service between the two points. *United Truck*

Lines, Inc. v. Interstate Commerce Commission, 189 F2d 816.

The Virginia Supreme Court of Appeals upheld an order of the commission denying a motor carrier certificate where evidence justified the conclusion that the award of the certificate was not necessary and, if granted, would absorb part of, and so lessen the volume of, freight shipped over the lines of carriers serving the territory as to seriously affect and impair their business. *Lee Compton Lines, Inc. v. Commonwealth ex rel. 65 SE2d 515.*

The Florida commission authorized an express agency to discontinue service at one of its agencies for a certain period each year where it was shown that there was but average of only one shipment per day during that period. *Re Railway Express Agency, Inc. Docket No. 3275-XP, Order No. 1716, Aug. 13, 1951.*

The Civil Aeronautics Board did not find that any discrimination would result if it authorized an air carrier to institute a proposed daylight air coach service at a reduced rate inasmuch as there was a reasonable relationship between the proposed fare differential and the character of service to be offered. *Re National Airlines, Docket No. 4786 et al. July 27, 1951.*

The Minnesota commission, in granting a railroad's request for permission to discontinue two little used passenger trains, observed that rules and legal precedents established prior to "the transportation revolution formed by public highways, private automobiles, and common carrier bus" are no longer applicable. Local passenger train service is now in an adverse competitive position. *Re Chicago, & N. W. R. Co. A-7115, June 20, 1951.*

Titles and Index

Preprints in This Issue of Cases to Appear in PUBLIC UTILITIES REPORTS

TITLES

INDEX

NEW YORK SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT

People of the State of New York

v.

County Transportation Company, Incorporated

— App Div —, — NYS2d —
June 29, 1951

SUBMISSION *of controversy to determine right of state to collect penalty from omnibus corporation for failure to obtain Commission approval for issuance of conditional sales contract; contract held subject to statute requiring Commission approval and nominal penalty imposed.*

Security issues, § 40 — Necessity of Commission approval — Conditional sales contracts.

1. An omnibus corporation subject to the general jurisdiction of the Commission must obtain Commission permission to issue a conditional sales contract to secure part of the purchase price of busses, under § 62 of the Public Service Law requiring authorization to issue "stocks, bonds, or other evidence of indebtedness," p. 130.

Statutes, § 13 — Construction — Interpretation by administrative agency.

2. The interpretation of a statute uniformly adopted and enforced by the agency charged with its administration should be sustained when, over a long period of years during which the law has been in operation the legislature has not changed its language, p. 130.

Security issues, § 16 — Powers of state — Interstate and intrastate bus corporation.

3. No conflict of law precluding state regulation of the issuance of conditional sales contracts by an omnibus corporation exists by reason of the fact that the corporation operates both interstate and intrastate, if the corporation is not required to obtain authorization from the Interstate Commerce Commission, p. 130.

APPEARANCES: Sherman C. Ward, Acting Counsel to Public Service Commission (Richard C. Llope of Counsel), Attorney for plaintiff; Edward R. Brumley (James D. O'Neill of Counsel), Attorney for defendant.

COON, J.: This is a controversy submitted on stipulated facts pursuant to § 546 of the Civil Practice Act.

The parties seek to determine the right of the plaintiff to collect a penalty from the defendant under the

Public Service Law because of the failure of the defendant to obtain approval of the Public Service Commission for the issuance of a conditional sales contract.

[1, 2] The solution of the controversy does not turn upon any minor particular of the submitted facts. The question seems to be general. The defendant is a New York omnibus corporation operating bus lines in both intrastate and interstate transportation, and concededly is subject to the general jurisdiction of the New York State Public Service Commission. It purchased ten new busses and executed a conditional sales contract for $128,000 to secure part of the purchase price. It did not apply for or obtain the permission of the Public Service Commission of the State to issue the contract. Section 62 of the Public Service Law requires, in general, the authorization of the Public Service Commission for an omnibus corporation to issue "stocks, bonds, or other evidence of indebtedness." It is conceded that the amount and terms would otherwise bring this conditional sales contract within the statute, but it is the first contention of the defendant that a conditional sales contract is not an "other evidence of indebtedness" within the meaning of the Public Service Law. The defendant would interpret those words to mean "other *such*," or "other *similar*" evidence of indebtedness, and confine the regulation to "securities" of the usual negotiable type. The legislature, however, did not say that. Nor has the legislature changed the language during the twenty years the law has been operative. The law has been interpreted consistently by its administrators to include conditional sales contracts as to intrastate omnibus corporations. Unless the statute clearly prohibits it, the interpretation uniformly adopted and enforced by the agency charged with the administration thereof should be sustained.

It undoubtedly is the primary purpose of § 62 to protect investors in securities of public utilities, but there are other objectives. There is a public interest in the possibility of sudden repossession of busses, interruption of service, and the general financial responsibility of a public utility operating under a franchise from the State.

[3] The other contention of the defendant is that because Congress has authorized the Interstate Commerce Commission to regulate interstate omnibus corporations, the State is precluded from doing so. No one disputes that congressional regulation covering the particular situation involved here, if exercised, would be exclusive.

It is urged that there is a conflict of laws. We see no conflict. The Interstate Commerce Commission has ruled that a conditional sales contract does not come within the provisions of a Federal act similar but not identical with § 62 of the state act. (Re Lehigh Valley R. Co. [1939] Finance Docket No. 12416, 233 Inters Com Rep 359; § 20-a of Part I of the Interstate Commerce Act—49 USCA, Chap 1). Defendant concedes that this ruling is not binding upon the state of New York, its agencies, or this court. It means only that defendant did not, and was not required to, obtain any authorization from the Interstate Commerce Commission. There is no Federal regulation at all.

Because there conceivably *could* be does not constitute a conflict until it arises. The state of New York, in that situation, is not treading upon any ground reserved exclusively for Federal regulation, and it may regulate, as it sees fit, its own corporation to which it has granted a franchise to operate as a public utility.

There is nothing in the present case to indicate any extra burden upon interstate commerce, and we do not feel that such a question is seriously involved.

As this controversy was submitted in good faith by both parties to obtain a construction of the law, the penalty should be nominal. Judgment should be granted to plaintiff for the sum of $50 and without costs.

UNITED STATES COURT OF APPEALS, DISTRICT OF COLUMBIA CIRCUIT

Franklin S. Pollak et al.

v.

District of Columbia Public Utilities Commission, Capital Transit Company, et al.

No. 10777
— US App DC —, — F2d —
June 1, 1951

APPEAL *from order of the United States District Court dismissing appeal from Commission order permitting continuance of transit radio; reversed with instructions to vacate Commission order and remand for further proceedings. For Commission decision, see (1949) 81 PUR NS 122.*

Service, § 31 — Powers of Commission — Standards.

1. The Commission is authorized to fix and enforce standards of service which must be met by public utilities, p. 134.

Appeal and review, § 9 — Orders subject to review.

2. A Commission order permitting a transit company to use loud speakers in its streetcars and busses for the broadcasting of music, announcements, and commercials is a final decision and is appealable to the courts, p. 134.

Appeal and review, § 80 — Parties who may appeal — Commission order affecting transit service.

3. Persons who use the service of a transit company and who have intervened in a Commission investigation of the right of the company to use

loud speakers in streetcars and busses for broadcasting music, announcements, and commercials are affected by a Commission order permitting the continuance of the broadcast and may properly appeal to the courts, p. 134.

Constitutional law, § 1 — Radio broadcasts on public conveyances — Violation of freedom — Product of government action.

4. The violation of the constitutional guaranty of liberty, which results when riders on public conveyances are forced to listen to announcements and commercials broadcast while they are in transit, is a product of government action, since the franchise under which the company operates is obtained from the government and the authority of the company to broadcast is obtained from the Commission, p. 134.

Constitutional law, § 2 — Time when denial of rights may be claimed — Finality of decision.

5. A Commission order dismissing a complaint on the merits and maintaining the status quo is a final exercise of its administrative function upon which a claim of denial of constitutional rights could be predicated, in the same manner as an order directing some change in status might be the basis for such claim, p. 134.

Constitutional law, § 1 — Constitutional guaranty of liberty — Freedom of enjoyment of faculties — Effect of transit radio.

6. A person who is forced to listen to radio broadcasts while traveling on a public bus or streetcar is not free in the enjoyment of all his faculties within the constitutional guaranty of liberty, p. 137.

Constitutional law, § 1 — Deprivation of liberty.

7. A deprivation of liberty to which the government is a party is unconstitutional when it is arbitrary or without reasonable relation to some purpose within the competency of the state to effect, p. 138.

Constitutional law, § 1 — Broadcasting on public conveyances — Deprivation of liberty.

8. The fact that a transit company and a broadcasting company which engage in broadcasting on streetcars and busses receive a profit from this enterprise and that one section of passengers are entertained by the broadcasts cannot justify another group of passengers being deprived of their freedom of attention, p. 138.

Constitutional law, § 1 — Broadcasting on public conveyances — Due process of law.

9. The broadcasting of announcements and commercials on public streetcars and busses deprives the passengers of liberty without due process of law, p. 139.

Service, § 407 — Radios in streetcars and busses.

10. A transportation service which violates the constitutional rights of bus and streetcar passengers by submitting them to radio broadcasts of announcements and commercials against their wishes is not a reasonable service and is not consistent with the public convenience, p. 139.

Appeal and review, § 68 — Scope of court action — Matter previously decided by Commission.

11. The circuit court of appeals, on determining that the Commission had erred in finding that public convenience and necessity were not adversely affected by radio broadcasts on public conveyances and that the district

court had erred in dismissing an appeal from such Commission order, may properly reverse the judgment of the district court with instructions to vacate the Commission order and remand the case to the Commission for further proceeding; and, in doing so, it does not leave the case in the same situation that it was in prior to the time that the Commission initiated its investigation of the transit radio broadcasts, p. 139.

Constitutional law, § 1 — Broadcast on public conveyances — Propriety of music broadcasts.

Statement that the court, in finding that the broadcasting by a transit company, on its public conveyances, of commercials and announcements to its passengers, violated their constitutional rights, does not decide whether occasional broadcasts of music alone would also infringe such rights, p. 139.

APPEARANCES: Paul M. Segal, with whom Franklin S. Pollak was on the brief, pro se, for appellants. Harry P. Warner and Quayle B. Smith entered appearances for appellants.

Daryal A. Myse, with whom Edmund L. Jones and F. G. Awalt were on the brief, for appellee Capital Transit Company.

Lloyd B. Harrison, Counsel, Public Utilities Commission of the District of Columbia, with whom Vernon E. West, Corporation Counsel, D. C., was on the brief, for appellee Public Utilities Commission of the District of Columbia.

W. Theodore Pierson, with whom Vernon C. Kohlhaas and Thomas N. Dowd were on the brief, for appellee Washington Transit Radio, Inc.

Morris L. Ernst, James Lawrence Fly, Osmond K. Fraenkel, Alexander B. Hawes, Arthur Garfield Hays, and Laurence A. Knapp filed a brief on behalf of the American Civil Liberties Union as amicus curiae urging reversal.

EDGERTON, CJ.: Appellee Capital Transit Company (Transit) operates streetcars and busses in the District of Columbia. In 1948 Transit made a contract with appellee Washington Transit Radio, Inc., (Radio) by which Radio was to install and maintain loudspeakers in Transit vehicles and provide broadcasts at least eight hours[1] daily except Sunday. In October, 1949, loudspeakers were in operation in 212 vehicles and it was planned to increase the number to 1,500.

Though Transit and Radio call the broadcasts "music as you ride," they include not only music but also "commercials, announcements, and time signals." The contract permits six minutes of "commercial announcements" per hour. These vary from 15 to 35 seconds in length and are usually scheduled about once in five minutes, though the interval varies.

Appellee Public Utilities Commission received protests against Transit's use of radio. It ordered an investigation and held a hearing "to determine whether or not the installation and use of radio receivers on the streetcars and busses of Capital Transit Company is consistent with public convenience, comfort, and safety . . ." Appellants, who ride Transit

[1] At the time of the Commission's hearing, actual hours of operation were 7 A.M. to 7 P.M.

vehicles, and other persons and organizations were allowed to intervene and took part in the hearing. The Commission found that transit radio does not reduce safety, "tends to improve the conditions under which the public rides," and "is not inconsistent with public convenience, comfort, and safety." The Commission's final order (81 PUR NS 122) "dismissed" its investigation.

Appellants and others appealed to the district court from the Commission's order. Appellants' petition of appeal states that appellants are "obliged to use the streetcars and busses of Capital Transit Company in connection with the practice of their profession and on other occasions and are thereby subjected against their will to the broadcasts in issue. These broadcasts make it difficult for petitioners to read and converse . . ." Each of the appellees, i.e. the Commission, Transit, and Radio, moved to dismiss the petitions of appeal as not stating claims on which relief could be granted and as not within the court's jurisdiction. The court dismissed the petitions on the ground that "no legal right of the petitioners . . . has been invaded . . ." This appeal followed.

Appellants' chief contention is that Transit radio deprives them of liberty without due process of law in violation of the Fifth Amendment of the Constitution.

[1–3] 1. The jurisdiction of the Public Utilities Commission, the district court, and this court are clear. All public utilities are required by act of Congress to "furnish service and facilities reasonably safe and adequate and in all respects just and reasonable" and the term "service" is used "in its broadest and most inclusive sense." D. C. Code (1940) §§ 43-301, 43-104. The Commission is authorized to fix and enforce standards of service. Sections 43-320, 43-303, 43-1002.

Since the Commission's order was its final decision that Transit may use loudspeakers in its streetcars and busses, the order was appealable. "Any . . . person . . . affected by any final order or decision of the Commission, other than an order fixing or determining the value of the property of a public utility in a proceeding solely for that purpose, may" appeal to the district court and from that court to this. D. C. Code (1940) § 43-705. "Administrative determinations which are not commands may for all practical purposes determine rights as effectively as the judgment of a court, and may be re-examined by courts under particular statutes providing for the review of 'orders.'" American Federation of Labor v. National Labor Relations Board (1940) 308 US 401, 408, 84 L ed 347, 60 S Ct 300. Since the appellants use the service of Transit and intervened before the Commission they are "affected by" the Commission's order and may appeal.[2]

[4, 5] 2. Transit passengers commonly have to hear the broadcasts

[2] Henderson v. United States (1950) 339 US 816, 94 L ed 1302, 86 PUR NS 430, 70 S Ct 843. In United States v. District of Columbia Pub. Utilities Commission (1945) 80 US App DC 227, 231, 61 PUR NS 485, 490, 151 F2d 609, we held that a consumer of electricity and intervenor before the Commission was "affected by" and could appeal from a Commission order fixing electric rates. We [there] said: ". . . Congress has used language, throughout the applicable Code sections, indicating an intention that consumers shall have a right to challenge the Commission's actions."

whether they want to or not.[3] The Commission made no finding on this point but the fact is well known. It was proved by many witnesses. It is in legal effect admitted by appellees' motions to dismiss the petition of appeal, since the petition states that appellants "are subjected against their will to the broadcasts in issue. These broadcasts make it difficult for petitioners to read and converse . . ." The brief of appellee Radio admits the fact in these terms: "It is impossible to give effect to this alleged right [not to listen] without frustrating the desire of other passengers to listen . . ." Appellee Transit says in its brief: "The record shows that *every precaution is taken* in the installation of the equipment and its maintenance *to minimize the sound level at the operators' position* and to distribute sound evenly throughout the public spaces in the vehicle . . ."[4] WWDC-FM, the transmitting station, advertised in 1949 that Transit Radio was "delivering a guaranteed audience."[5] The passengers are known in the industry as a "captive audience." Formerly they were free to read, talk, meditate, or relax. The broadcasts have replaced freedom of attention with forced listening.

Most people have to use mass transportation. In the District of Columbia this means they have to use Transit and hear the broadcasts. Even as between the District and the adjoining Pentagon region in Virginia the Supreme Court has said: ". . . most government employees, in going to and returning from their work, were compelled to begin or complete their trips by utilizing busses or streetcars of Capital Transit." United States v. Capital Transit Co. (1945) 325 US 357, 359, 89 L ed 1663, 58 PUR NS 257, 65 S Ct 1176.

3. Though statutes and the law of torts forbid invasions of liberty by private individuals, the constitutional guaranties of liberty are directed against government action. But acts of individuals are beyond the reach of these guaranties only when they are "unsupported by state authority in the shape of laws, customs, or judicial or executive proceedings." Civil Right Cases (1883) 109 US 3, 17, 27 L ed 835. For example, since

[3] Appellants' supplementary application to the Commission for rehearing contains a physicist's affidavit explaining in technical terms that "the ear hears plainly at its low sound level what the meter does not detect at its high sound level."

[4] Emphasis added.

[5] THE 1949 RADIO ANNUAL, p. 363.

In their supplementary application for reconsideration, appellants referred to "a brochure issued by Transit Radio, Inc.," the corporation described by a witness for Washington Transit Radio, Inc., as the national or parent company. This brochure is entitled "A New Idea—A New Voice—A New Medium for Advertisers—transit radio." Washington is one of the cities concerning which it says: "The advertiser knows how large an audience he is reaching in each Transit Radio city because the rate he pays is based essentially on the actual count of paid passenger fares. No surveys are necessary—guesswork plays no part. . . . Transit radio . . . provides a definitely measurable audience . . . When the studio microphone is switched on for the announcer to read a commercial, the transmitter automatically emits a supersonic note which activates *the voice emphasis circuit* and raises the volume about 25 per cent. The result: *Everyone hears the commercial!* . . . Speakers are mounted on the overhead panels, alternately on the right and left sides, so that every passenger gets perfect reception from a speaker just overhead. If they can hear—they can hear your commercial!" Appellants asked to be permitted to examine concerning the "25 per cent" statement a witness who had testified that "The measurable difference acoustically" between the radio sets when operating on voice and on music "is hardly discernible."

Smith v. Allwright (1944) 321 US 649, 88 L ed 987, 64 S Ct 757, 151 ALR 1110, was decided a state cannot "by permitting a party to take over a part of its election machinery, . . . avoid the provisions of the Constitution forbidding racial discrimination in elections . . ." Rice v. Elmore (1947) 165 F2d 387, 389. A private corporation that owns the streets of a town may no more abridge the freedoms of press and religion than a municipality regularly organized. Marsh v. Alabama (1946) 326 US 501, 506, 90 L ed 265, 66 S Ct 276. The Supreme Court has recently said: ". . . when authority derives in part from government's thumb on the scales, the exercise of that power by private persons becomes closely akin, in some respects, to its exercise by government itself." American Communications Asso. v. Douds (1950) 339 US 382, 401, 94 L ed 925, 70 S Ct 674.

The forced listening imposed on Transit passengers results from government action. By authorizing Transit and forbidding others to operate local streetcars and busses, Congress made it necessary to ride the vehicles in which Transit makes it necessary to hear the broadcasts. Streetcars and busses cannot operate in city streets without a franchise. Congress has given Transit not only a franchise but a virtual monoply of the entire local business of mass transportation of passengers in the District of Columbia.[6]

Furthermore the forced listening has been sanctioned by the governmental action of the Commission. If the Commission had found it contrary to public comfort or convenience, or unreasonable, it would have stopped. Because the Commission decided otherwise it continues. To suggest that a "negative" order cannot be the final step in a misuse of government power is to assert a distinction the Supreme Court has repudiated. "An order of the Commission dismissing a complaint on the merits and maintaining the status quo is an exercise of administrative function, no more and no less, than an order directing some change in status." Rochester Teleph. Corp. v. United States (1939) 307 US 125, 142, 83 L ed 1147, 28 PUR NS 78, 89, 59 S Ct 754; Mitchell v. United States (1941) 313 US 80, 92, 85 L ed 1201, 61 S Ct 873; Henderson v. United States (1950) 339 US 816, 94 L ed 1302, 86 PUR NS 430, 70 S Ct 843. Even failure to enter any order may be a denial of constitutional rights. Smith v. Illinois Bell Teleph. Co. 270 US 587, 70 L ed 747, PUR1926C 754, 46 S Ct 408. By dismissing its investigation the Commission declined to prevent valid

[6] The monopoly is apparently complete except that an interurban line that operates in one part of the District carries local passengers. This line also, according to the testimony, subjects its passengers to forced listening.

Transit was formed, under an act and a Joint Resolution of Congress, by a merger of previously independent lines. Act of March 4, 1925, 43 Stat 1265; Joint Resolution of January 14, 1933, 47 Stat 752.

Congress authorized the end of competition and enacted that there should be no new competition except upon a showing exceedingly difficult to make. "No competitive street railway or bus line, that is, bus or railway line for the transportation of passengers of the character which runs over a given route on a fixed schedule, shall be established without the prior issuance of a certificate by the Public Utilities Commission of the District of Columbia to the effect that the competitive line is necessary for the convenience of the public." Section 4 of the Joint Resolution, 47 Stat 760.

action of Congress from having an unintended and unnecessary result.

[6] No occasion had arisen until now to give effect to freedom from forced listening as a constitutional right. Short of imprisonment, the only way to compel a man's attention for many minutes is to bombard him with sound that he cannot ignore in a place where he must be. The law of nuisance protects him at home.[7] At home or at work, the constitutional question has not arisen because the government has taken no part in forcing people to listen. Until radio was developed and someone realized that the passengers of a transportation monopoly are a captive audience, there was no profitable way of forcing people to listen while they travel between home and work or on necessary errands. Exploitation of this audience through assault on the unavertible sense of hearing is a new phenomenon. It raises "issues that were not implied in the means of communication known or contemplated by Franklin and Jefferson and Madison."[8] But the Bill of Rights, as appellants say in their brief, can keep up with anything an advertising man or an electronics engineer can think of. In United States v. Classic, Mr. Justice Stone said for the Supreme Court: "In determining whether a provision of the Constitution applies to a new subject matter, it is of little significance that it is one with which the framers were not familiar. For in setting up an enduring framework of government they undertook to carry out for the indefinite future and in all the vicissitudes of the changing affairs of men, those fundamental purposes which the instrument itself discloses." (1941) 313 US 299, 316, 85 L ed 1368, 61 S Ct 1031.

If Transit obliged its passengers to read what it liked or get off the car, invasion of their freedom would be obvious. Transit obliges them to hear what it likes or get off the car. Freedom of attention, which forced listening destroys, is a part of liberty essential to individuals and to society.[9] The Supreme Court has said that the constitutional guaranty of liberty "embraces not only the right of a person to be free from physical restraint, but the right to be free in the enjoyment of all his faculties . . ."[10] One who is subjected to forced listening is not free in the enjoyment of all of his faculties.

Both the decision and the opinions in Kovacs v. Cooper (1949) 336 US 77, 93 L ed 513, 69 S Ct 448, 10 ALR2d 608, give great weight to the public interest in freedom from forced listening. The Supreme Court upheld a municipal ordinance prohibiting loud and raucous sound trucks in public streets. Mr. Justice Reed's opinion, for three Justices, said (313 US at pp. 86, 87): "The unwilling listener is not like the passer-by who may be offered

[7] Stodder v. Rosen Talking Machine Co. (1922) 241 Mass 245, 135 NE 251; (1923) 247 Mass 60, 141 NE 569; Fos v. Thomassie (La Ct App 1946) 26 So2d 402; Five Oaks Corp. v. Gathmann (1948) 190 Md 348, 58 A2d 656.

[8] Mr. Justice Frankfurter, concurring, in Kovacs v. Cooper, cited above, 336 US at p. 96.

[9] "The right of free speech is guaranteed every citizen that he may reach the minds of willing listeners . . ." Mr. Justice Reed in Kovacs v. Cooper, cited above, 336 US at p. 87.

[10] Grosjean v. American Press Co. (1936) 297 US 233, 244, 80 L ed 660, 56 S Ct 444.

a pamphlet in the street but cannot be made to take it. In his home or on the street he is practically helpless to escape this interference with his privacy by loud-speakers except through the protection of the municipality." Kovacs had broadcast, along with music, comment on a labor dispute. He contended that the ordinance abridged his freedom of speech. The Supreme Court's decision upholding the ordinance means that the public interest in freedom from forced listening is so important as to outweigh even the public interest in making more effective, by amplifying, a communication protected by the First Amendment. It would seem to follow that the public interest in freedom from forced listening outweighs the private interest in making more effective, by amplifying, a communication not protected by the First Amendment. The Amendment does not protect commermercial advertising.[11]

Validation of the forced listening involved here would result in this curious paradox. Although a municipality may forbid speech protected by the First Amendment from being broadcast in a street, where no one need hear it more than a few minutes, speech not protected by the First Amendment may be broadcast in a streetcar where passengers must hear it for a substantial time.

[7] Of course freedom from forced listening, like other freedoms, is not absolute. No doubt the government may compel attention, as it may forbid speech, in exceptional circumstances. But a deprivation of liberty to which the government is a party is unconstitutional when it is "arbitrary or without reasonable relation to some purpose within the competency of the state to effect." Meyer v. Nebraska (1923) 262 US 390, 400, 67 L ed 1042, 43 S Ct 625. Forcing Transit passengers to hear these broadcasts has no reasonable relation to any such purpose.[12] Some discomforts may perhaps be inevitable incidents of mass transportation, but forced listening is neither incidental nor inevitable. It deprives the appellants and other passengers who object to the broadcasts of their liberty for the private use of Transit, Radio, and passengers who like the broadcasts. This loss of freedom of attention is the more serious because many people have little time to read, consider, or discuss what they like, or to relax. The record makes it plain that the loss is a serious injury to many passengers.[13] They suffer not only the discomfort of hearing what they dislike but a sense of outrage at being compelled to hear whatever Transit and Radio choose.

[8] Willing hearers are entertained by the broadcasts. But the profit of Transit and Radio and the entertainment of one group of passengers cannot justify depriving another group of

[11] Valentine v. Chrestensen (1942) 316 US 52, 86 L ed 1262, 62 S Ct 920.

[12] The record contains a suggestion that transit broadcasts might be useful in "panic control" and other emergencies. But one powerful loudspeaker in each vehicle, available for use when needed, would serve any such purpose. The suggestion is no argument for maintaining six loudspeakers in each vehicle and operating them twelve hours a day.

[13] Objection to forced listening is not limited to people who dislike radio. One objecting witness said: "I have three radios in my house and I have three reasons for liking them. The first reason is that you can always turn them off. The second one is that you can choose your program, and the third is that you can regulate the volume."

passengers of their liberty.[14] The interest of some in hearing what they like is not a right to make others hear the same thing.[15] Even if an impartial survey had shown that most passengers liked the broadcasts or were willing to tolerate them on the supposed chance of a money benefit,[16] that would not be important, since the will of a majority cannot abrogate the constitutional rights of a minority. Moreover there is no evidence that any large group of passengers actually wish to go on being entertained by broadcasts forced upon other passengers at the cost of their comfort and freedom.[17]

[9, 10] It has been argued that when freedom of attention is abridged freedom of speech and press are abridged, and that when Transit sells the forced attention of its passengers to Radio for advertising purposes it deprives them of property as well as liberty. Also, it may well be doubted whether Transit can perform its statutory duty of providing comfortable service for all by giving more than comfortable service to some and less than comfortable service to others. But we need not consider these issues. In our opinion Transit's broadcasts deprive objecting passengers of liberty without due process of law. Service that violates constitutional rights is not reasonable service. It follows that the Commission erred as a matter of law in finding that Transit's broadcasts are not inconsistent with public convenience, in failing to find that they are unreasonable, and in failing to stop them.[18]

This decision applies to "commercials" and to "announcements." We are not now called upon to decide whether occasional broadcasts of music alone would infringe constitutional rights.

[11] Congress has provided that after hearing an appeal from the Public Utilities Commission the district court "shall either dismiss the said appeal and affirm the order or decision of the Commission or sustain the

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[14] Withdrawing this particular entertainment will no more deprive willing hearers of liberty than excluding a man from a particular place imprisons him.

[15] The Chairman of the Commission said at the hearing: "The decision of the Commission will be made on the numbers of those saying, 'I like it' and those saying, 'I dislike it.'"

[16] The Commission did not find and nothing in the record suggests that Transit gets enough money from the broadcasts, in relation to the number of its passengers, to have any possible effect on fares.

[17] An organization employed by appellees Transit and Radio to make a survey of passenger sentiment failed to ask persons who said they favored transit radio whether they would still favor it if they knew it caused serious annoyance to a substantial number of passengers. Yet this survey did ask persons who said they opposed transit radio whether they would still object if the majority approved. To investigate the altruism of the objecting group and not that of the approving group reflects bias and produces a biased result. Moreover the survey did not inquire into the intensity of likes and dislikes. It ignored the question how many persons have been induced by the broadcasts to use Transit less, or more, than formerly.

All persons interviewed were passengers on radio-equipped vehicles. According to the report 76.3 per cent said they favored radio, 13.9 per cent did not care, 3.2 per cent "didn't know," and 6.6 per cent objected but 3.6 per cent said they would not oppose the majority will. An unbiased inquiry which did not claim to be scientific produced a different result. On November 6, 1949, the Washington Post printed two "ballots", one reading "Yes I favor radio broadcasts in streetcars and busses" and the other "No I do not favor radio broadcasts in streetcars and busses." On November 13, 1949, the Post reported that of the 5,402 ballots returned, 2,387 favored the broadcasts and 3,015, or 55.8 per cent, did not.

[18] The fact that administrative agencies may not consider issues involving the constitutionality of congressional action is irrelevant since there is no such issue in this case.

appeal and vacate the Commission's order or decision." D. C. Code (1940) § 43-705. Counsel for the Commission contend that to vacate its order "would be an ineffectual thing, leaving the status quo as it existed prior to the initiation of the investigation" and that if constitutional rights are invaded it "may be the basis for suit for injunction under the court's general equity powers, but it is not a proper basis for an appeal from the Commission's order." In our opinion these contentions are erroneous and the appellants need not sue out an injunction. To say that they "must institute another and distinct proceeding, would be to put aside substance for needless ceremony." Smith v. Illinois Bell Teleph. Co. 270 US 587, 591, 70 L ed 747, PUR1926C 754, 758, 46 S Ct 408.

The Wagner Act provided that a circuit court of appeals might enforce, modify and enforce, or set aside, an order of the National Labor Relations Board.[19] It did not provide that a court might remand a cause to the Board for further proceedings. But in Ford Motor Co. v. National Labor Relations Board (1939) 305 US 364, 372, 373, 83 L ed 221, 59 S Ct 301, the Supreme Court held that "If the court itself had set aside the findings and order of the Board . . . the court could have remanded the cause for further proceedings in conformity with its opinion. . . . The jurisdiction to review the orders of the Labor Relations Board is vested in a court with equity powers, and while the court must act within the bounds of the statute and without intruding upon the administrative province, it may adjust its relief to the exigencies of the case in accordance with the equitable principles governing judicial action. The purpose of the judicial review is consonant with that of the administrative proceeding itself,—to secure a just result with a minimum of technical requirements. The statute with respect to a judicial review of orders of the Labor Relations Board follows closely the statutory provisions in relation to the orders of the Federal Trade Commission, and as to the latter it is well established that the court may remand the cause to the Commission for further proceedings . . ." Similarly in Federal Power Commission v. Pacific Power & Light Co. (1939) 307 US 156, 159, 160, 83 L ed 1180, 28 PUR NS 93, 95, 59 S Ct 766, in holding that a court of appeals had jurisdiction to review a Power Commission order declining to authorize a transfer of corporate assets the Supreme Court said: "It is urged that . . . the court itself cannot lift the prohibition of the statute by granting permission for the transfer, nor order the Commission to grant such permission. And so it is claimed that any action of a court in setting aside the order of the Commission would be an empty gesture . . . But . . . The Court has power to pass judgment upon challenged principles of law in so far as they are relavent to the disposition made by the Commission. '. . . a judgment rendered will be a final and indisputable basis of action . . .' Interstate Commerce Commission v. Baird (1904) 194 US 25, 38, 48 L ed 860, 866, 24 S Ct 563. In making such a judgment the court does not intrude upon the province of the Commission,

[19] § 10(e), 49 Stat 454, 29 USCA 160(e).

while the constitutional requirements of 'case' or 'controversy' are satisfied. For purposes of judicial finality there is no more reason for assuming that a Commission will disregard the direction of a reviewing court than that a lower court will do so."

The judgment of the district court is therefore reversed with instructions to vacate the Commission's order and remand the case to the Commission for further proceedings in conformity with this opinion.

Reversed.

FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION

Re W. W. Lancaster

Docket No. 3311-CCT, Order No. 2590
July 23, 1951

APPLICATION *for certificate of convenience and necessity permitting transportation, as a motor carrier, of heavy commodities requiring specialized handling and equipment; granted.*

Monopoly and competition, § 65 — Motor transportation — Heavy machinery.

A contractor owning equipment consisting of bulldozers, trucks, cranes, and heavy duty trailers, and prepared to haul extra-heavy machinery and other articles of unusual size and weight requiring special handling, was authorized to engage in such transportation as a common carrier notwithstanding objections by a carrier having authority to engage in such transportation but lacking equipment, although the objector testified that he could on short notice acquire equipment for required services.

(MACK, Chairman, dissents in part.)

APPEARANCES: David L. Shannon and John L. Chisholm, of the office of E. W. Gautier, New Smyrna Beach, for the applicant; Wayne K. Ramsay, Jacksonville, for protestant R. J. Gould Trucking Company of Tampa; O. C. Beakes, Jacksonville, for Leonard Brothers of Miami, Watts Smith Heavy Hauling of Orlando, Ploof Transfer Company, Wood-Hopkins Transfer Company, and Kennelly Transfer Company of Jacksonville, and Miami Transfer Company of Miami; Louis Ossinsky, of Horn & Ossinsky, Daytona Beach, for Ridgeway Transfer and Storage Company of Daytona Beach.

Subsequent to the hearing held in this cause the examiner submitted for the Commission's consideration a proposed form of order granting the certificate of public convenience and necessity applied for. The Commission transmitted copies of the examiner's proposed order to all parties of record in the proceeding and allowed such parties fifteen days within which to file with the Commission exceptions

to the proposed order. Exceptions were filed by attorneys for all parties except the applicant.

By the COMMISSION: By this proceeding, W. W. Lancaster seeks a certificate of public convenience and necessity to operate an auto transportation company as a common carrier of heavy commodities which due to their size, weight, length, and height require specialized handling and equipment, between points and places in Volusia, Flagler, and Brevard counties and between points and places in said counties and points and places in the state of Florida.

The applicant is engaged in the contracting business, having his principal place of business in Daytona Beach. He clears and grades land and in the conduct of his business he has acquired equipment consisting of bulldozers, trucks, cranes, and heavy duty trailers. At the present time he owns one "low-boy" trailer, which is used to haul extra-heavy machinery and other articles of unusual size and weight.

Applicant proposes to have equipment domiciled in Daytona Beach to be used in rendering service to the public between points and places in Volusia, Flagler, and Brevard counties and between points and places in those counties and points and places in the state of Florida. He is not interested nor does he intend to solicit business in such metropolitan areas as Tampa, Miami, and Jacksonville. However, if a shipper in any of the three named counties has a commodity coming under the classification of heavy hauling destined from one of said counties to any point in the state, applicant would handle the shipment and would return empty unless on his return trip he was offered a shipment destined to one of the three counties. Applicant has been called upon on numerous occasions to transport heavy commodities which, due to their size, weight, length, and height, required specialized handling and equipment. In some instances he transported these commodities for hire in violation of the laws of Florida. He testified, however, that these movements were what he termed "emergency hauls." Applicant has been a resident of Daytona Beach for approximately seven and one-half years and testified that to the best of his knowledge there was no equipment located in Volusia, Flagler, and Brevard counties suitable to perform the type of transportation he proposes.

Public witnesses, consisting of contractors who own heavy equipment which requires specialized handling and equipment to transport, and distributors of such equipment, testified in support of the application. One contractor owns a heavy-duty trailer which he uses to transport his heavy machinery in and around the Daytona Beach area. However, he testified that when this equipment has to be moved any appreciable distance, he needs the service of a qualified carrier.

The testimony of witnesses appearing in support of the application summarized is to the effect that there is a public need and demand for the service as proposed by applicant. They particularly feel that the public need and demand for such service would be more fully met by having a certificated carrier with equipment stationed in Daytona Beach to take care of any needs that might arise due to emer-

gencies or in the ordinary course of business.

Protestant Ridgeway Transfer Company of Daytona Beach now holds authority from the Commission which authorizes the type of transportation proposed by the applicant. This authority has been in effect since September 4, 1930. The company offers the type of service proposed by applicant but it does not own the heavy trailer equipment required for this type of transportation. The president and general manager of this protestant testified that he has an arrangement whereby he can furnish shippers with equipment to handle any heavy machinery within a period of three hours. He would obtain this equipment from carriers domiciled in Jacksonville or Orlando, and he stated that many times he could arrange to stop a piece of heavy equipment being operated through Daytona Beach by a certificated carrier and have the driver stay over to take care of such heavy hauling as he might have on hand. This protestant has not been called upon to render the type of service proposed by applicant in sufficient volume to lead him to believe that the public need required the stationing of suitable equipment in Daytona Beach. However, he is financially able to purchase the necessary equipment if the demand for same is sufficient. The other protestants constituting the bulk of the certificated heavy haulers in the state of Florida are domiciled either in Jacksonville, Tampa, Orlando, or Miami.

The area composed of Volusia, Brevard, and Flagler counties has a population in excess of 50,000, and it is the contention of applicant and public witnesses appearing in his behalf that this large and prosperous area of Florida needs and requires a certificated carrier with sufficient equipment domiciled in that area. They feel that it is an unjust imposition to require citizens in that area to be put to the inconvenience of having to call upon carriers in Miami, Tampa, Orlando, and Jacksonville for service.

After due consideration of the testimony and evidence adduced at said hearing and the exceptions filed by the protestants to the proposed order of the examiner, the Commission finds that there is a public need and demand for the transportation service proposed by applicant; that public convenience and necessity require the granting of the application and that applicant is qualified, financially and otherwise, to conduct such transportation service.

In addition to filing exceptions, two of the protestants have requested oral argument before the Commission. The exceptions, however, are clear and speak for themselves and the Commission considers that oral argument is not necessary. Due to the Commission's crowded docket, the requests for oral argument are denied.

It is therefore *ordered, adjudged,* and *decreed* by the Florida Railroad and Public Utilities Commission that Certificate of Public Convenience and Necessity No. 377 be and the same is hereby issued to W. W. Lancaster, authorizing the transportation service above set forth.

It is *further ordered* that applicant file with this Commission evidence of compliance with its rules governing insurance.

It is *further ordered* that nothing

herein shall be construed to authorize the use or operation over the highways of the state of Florida of equipment the size and weight of which is in violation of § 323.11, Fla Stats 1949, unless and until a special or emergency permit shall have been obtained from the State Road Department of Florida.

MACK, Chairman, dissents in part: Chairman Richard A. Mack agrees to the granting of this application in so far as it relates to authority to operate between points and places in Volusia, Flagler, and Brevard counties and from points and places in such counties to points and places in the state of Florida but he considers that the application should not be granted as to authority to operate from points and places in the state of Florida to points and places in Volusia, Flagler, and Brevard counties. Chairman Mack, therefore, dissents as to such portion of this order.

FEDERAL POWER COMMISSION

Re State Line Gas Company

Docket No. G-1516
March 27, 1951

APPLICATION *for order, pursuant to § 7(b) of Natural Gas Act, authorizing and approving abandonment of a natural gas pipeline system proposed to be sold and transferred to an interstate natural gas pipeline company; dismissed without prejudice.*

Interstate Commerce, § 37.1 — Scope of Natural Gas Act — Local facilities.

Natural gas facilities were not used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Federal Power Commission, nor for the sale of natural gas in interstate commerce for resale for ultimate public consumption, where the facilities in one of the company's two divisions produced and sold natural gas exclusively in one state and were not used for the transportation or sale of natural gas in interstate commerce for resale for ultimate public consumption; where the company's total gas supply consisted of a very small amount of local production, of gas purchased from another company in the state, and of gas purchased from an interstate natural gas pipeline through a connection at the state boundary; where such gas was delivered at approximately 20 to 30 pounds pressure and was supplied directly to consumers without further main line pressure reductions; and where final reduction in pressure prior to actual consumption was accomplished by means of individual house regulators along the line in the manner customary for local distribution companies in the average community.

By the COMMISSION: On October 19, 1950, State Line Gas Company (applicant), filed an application for an order pursuant to § 7(b) of the Nat-

ural Gas Act, 15 USCA § 717f(b), as amended, authorizing and approving the abandonment of its natural gas pipeline system located in Greene and Fayette counties, in Pennsylvania, which it proposes to sell and transfer to The Peoples Natural Gas Company.

The natural gas system owned and operated by applicant for which authorization to abandon is sought is divided into two divisions. The western or "Taylortown Division" comprises a small distribution system in or near Taylortown, Pennsylvania, and a transmission pipeline along which natural gas is produced, purchased, and sold. At the southwest end of this pipeline gas was formerly sold to Monongahela Power Company through a connection known as the "Bowen Wade connection" on the Pennsylvania-West Virginia boundary. This sale was discontinued in the latter part of 1950 subsequent to the sale of all the gas properties of Monongahela Power Company to the Hope Natural Gas Company. Authorization to abandon the Bowen Wade connection facilities and to terminate the sale and delivery of natural gas at that point was granted applicant by order of the Commission dated November 29, 1950, in Docket No. G–1507. "Taylortown Division" now produces and sells natural gas exclusively in the state of Pennsylvania and is not used for the transportation or sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission.

The eastern or "Point Marion Division" of applicant's system comprises a distribution system in the town of Point Marion, Pennsylvania, and vicinity, together with production and gathering facilities in the vicinity of Point Marion. The supply of natural gas for the Point Marion Division comes in part from local purchases and production, and in part from purchases of natural gas from Hope Natural Gas Company at the "Garlow connection" on the Pennsylvania-West Virginia boundary. The Point Marion Division first commenced the service of natural gas in and around Point Marion, Pennsylvania, in 1895. By 1910 applicant's distribution system lines were virtually completed in their present form. The pipeline which now connects with the lines of Hope Natural Gas Company, known as the "Rosedale Line," originally was used not only as a distribution line, but also as a gathering line for the gas produced in the area along its route. As gas supplies increased, the Rosedale Line was extended and excess gas was sold by means thereof to the West Virginia Utilities Company for resale outside the state of Pennsylvania. In 1936, when local production had greatly declined, the Rosedale Line was first used to receive natural gas from the state of West Virginia.

Applicant's total gas supply consists of a very small amount of local production, gas purchased from Victor Gas Company at Nilan, Pennsylvania, and the gas purchased from Hope Natural Gas Company through the Garlow connection, hereinbefore referred to. The gas purchased by applicant from Hope Natural Gas Company and Victor Gas Company is delivered at approximately 20 to 30 pounds pressure and is supplied directly to consumers without further main line pressure reductions. Final reduction in pressure prior to actual

consumption is accomplished by means of individual house regulators along the Rosedale Line, in the manner customary for local distribution companies in the average community. The Point Marion Division comprises a total of 15.77 miles of pipeline in sizes varying from one-inch to 6§-inch, and of this total 3.73 miles of line constitute the Rosedale Line. Seventeen customers of applicant are served directly from this Rosedale Line. A total of 590 customers are served by applicant in its Point Marion Division.

The Commission finds:

(1) The facilities hereinbefore described which applicant proposes to abandon are not used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission nor for the sale of natural gas in interstate commerce for resale for ultimate public consumption.

(2) The application filed by State Line Gas Company on October 19, 1950, for an order authorizing and approving the abandonment of the facilities hereinbefore described should be dismissed without prejudice.

The Commission *orders:*

(A) The application for an order pursuant to § 7(b) of the Natural Gas Act, *supra,* as amended, which was filed by State Line Gas Company on October 19, 1950, be and the same hereby is dismissed without prejudice.

(B) Nothing herein shall be construed as relieving applicant from hereafter complying with § 7, as amended, or any other pertinent provisions of the Natural Gas Act.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Williamsport Central Labor Union

v.

Pennsylvania Power & Light Company

Complaint Docket No. 15185
June 11, 1951

MOTION *by gas company to dismiss complaint by labor association alleging proposed rate increases to be unjustified; granted.*

Rates, § 641 — Parties — Complaint against gas company — Labor association. A complaint by a labor association alleging that proposed gas rate increases were unjustified was dismissed, upon motion of the gas company, on the grounds that the association was not a customer of the company and had no interest or standing as a complainant, that the association had failed in its complaint to indicate any proper interest, and that it had failed to file an answer to the motion to dismiss.

By the COMMISSION: In the above matter, complainant Williamsport Central Labor Union filed its complaint wherein it stated, in addition to its name and address and that of its counsel and the respondent utility, that "The increase in gas rates applied for by respondent utility would result in this area having the highest gas rates in the commonwealth. The proposed increase would result in excessive revenue to the utility and would be greatly burdensome to the consumers."

The relief sought as stated in the complaint is "the revocation of the order approving said rate increase, if such order has been made. In the event that such order has not been made the relief sought is the disapproval or rejection of the application for said increase by respondent utility."

No other interest of the complainant in the subject matter is set forth other than that above referred to.

Respondent filed a motion to dismiss the complaint and averred in support thereof that "The complainant, Williamsport Central Labor Union, is not a gas customer of the respondent and, therefore, has no interest or standing as a complainant."

Complainant filed no answer to the motion.

As stated by the Commission in Philadelphia Citizens Committee v. Philadelphia Transp. Co. (1950) 28 Pa PUC 461, 463, 87 PUR NS 281, 282.

"This Commission has upon numerous occasions considered § 1001 of the Public Utility Law, 66 PS § 1391. This section provides:

" 'The Commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the Commission.'

"The meaning of having an interest in the subject matter is well illustrated by the orders of this Commission, in Hegarty and The Municipal Ownership Water League of Wyoming Valley v. Luzerne County Gas & E. Corp. (1941) 23 Pa PUC 118; Pennsylvania Hotels Asso. v. The Bell Teleph. Co. of Pennsylvania (1949) Complaint Docket No. 14141, 78 PUR NS 120; Conyngham Valley Lions Club v. Conyngham Water Co. (1949) Complaint Docket No. 14687, 80 PUR NS 92; and Lower Paxton Township Supervisors v. Harrisburg Suburban Water Co. (1949) Complaint Docket No. 14788, 81 PUR NS 89.

"In the Hegarty Case, *supra*, a motion to dismiss the complaint of the Municipal Ownership Water League of Wyoming Valley was granted for the reason that the league was not a proper party complainant. The league was held to be a nonprofit organization having an existence separate and apart from that of its members. The league, not being a consumer but having consumers of the respondent company among its members, was held not entitled to litigate causes of action which might arise to a consumer, although this was not necessarily true of some of its members. The 'interest' did not exist in the league as such.

"This Commission in its final order of April 11, 1949, held in Pennsyl-

vania Hotels Asso. v. The Bell Teleph. Co. of Pennsylvania, *supra,* 78 PUR NS at p. 122, that the Pennsylvania Hotels Association was not a party having an interest in the subject matter. It was said:

" 'It has not asserted that it has brought this complaint as a consumer . . . The source of interest is said to be its status as a representative for parties who would have a definite standing to institute the complaint. The necessary interest cannot exist solely by reason of an assertion of agency. Pennsylvania Commercial Drivers Conference v. Pennsylvania Milk Control Commission (1948) 360 Pa 477, 483, 62 A2d 9.' "

In Penn Harris Hotel Co. v. Public Utility Commission (1950) 166 Pa Super Ct 394, 395, 84 PUR NS 78, 79, 71 A2d 853, the court sustained the action of the Commission in dismissing the complaint of the Pennsylvania Hotels Association, and there said:

"The association comprises 205 Pennsylvania hotels; 125 of them subscribe to the branch exchange service; and 56 of these are represented by the association and mentioned in the complaint. The association itself is not a subscriber to the type of service here involved. The Law, *supra,* § 1001, 66 PS § 1391, provides: 'The Commission, or any person, corporation, or municipal corporation *having an interest in the subject matter,* . . . may complain in writing . . . .' (Italics added.) Obviously, the association does not have a direct, immediate, pecuniary, and substantial interest in the subject of the controversy, and the Commission correctly held that it was not a proper party. Lansdowne Borough Board of Adjustment (1934) 313 Pa 523, 170 Atl 867; Pennsylvania Commercial Drivers Conference v. Pennsylvania Milk Control Commission (1948) 360 Pa 477, 62 A2d 9; Seitz Liquor License Case [Re Seitz] (1945) 157 Pa Super Ct 553, 43 A2d 547."

The complainant failed in its complaint to indicate any proper interest and failed to file an answer to the motion to dismiss, which averred that the complainant was not a "gas customer of the respondent" and had "no interest or standing as a complainant."

For the reasons stated, respondent's motion must be granted, and the complaint dismissed; therefore,

It is *ordered:* That the motion of Pennsylvania Power & Light Company, respondent in the proceeding, to dismiss the complaint of Williamsport Central Labor Union, be and is hereby granted and the complaint at Complaint Docket No. 15185 be and is hereby dismissed.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Edwin Francis Bennett

CA-2962
July 3, 1951

APPLICATION *for authority to erect community antenna with wired-in television signals; dismissed for want of jurisdiction.*

Public utilities, § 105.1 — What constitutes — Television.

1. It is doubtful whether a community antenna with wired-in television signals is included in the statute defining public utilities as plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery or furnishing of heat, light, water, or power, because, while voice is transmitted, it is not by means or methods ordinarily associated with telephone service, and transmission of the voice is inextricably interwoven with the transmission of visual signals which are clearly not included in the ordinary concept of "conveyance of telephone messages," p. 150.

Radio and television, § 2 — State Commission jurisdiction — Congressional supervision.

2. Jurisdiction given to the state Commission, by the legislature, over television has been nullified by the complete supervision exercised by Congress over transmission by television, which necessarily transcends state lines and is, therefore, interstate in character, p. 150.

Construction and equipment, § 5 — Poles and wires — Television — State jurisdiction.

Statement that although the state Commission's jurisdiction over television is subservient to Federal jurisdiction, an applicant seeking authority to construct a community antenna with wired-in television signals should note § 86.16, Wisconsin Statutes, and the state electrical code, which may be applicable to the proposed operation, irrespective of the lack of broader regulatory jurisdiction by the Commission, p. 152.

By the COMMISSION: On April 21, 1951, Edwin Francis Bennett, 511 West Knapp street, Rice Lake, Barron county, filed an application with the Commission for authority to erect a community antenna to serve the residents of the city of Rice Lake, Barron county, with wired-in television signals to subscriber premises.

APPEARANCES: Edwin Francis Bennett, by George Strang, Attorney, Barron. As their interests may appear: Commonwealth Telephone Company, by H. F. Moran, Commercial Superintendent, Madison, and R. A. Schultz, Engineer, Madison. Of the Commission staff: H. J. O'Leary and K. J. Jackson, rates and research department; Ralph E. Purucker, engineering department.

Findings of Fact

The Commission finds that the essential evidentiary facts are as follows:

The proposed project will consist of intercepting, by means of an antenna, television signals transmitted from Minneapolis and St. Paul under authority granted by the Federal Communications Commission. The signals so intercepted will be amplified from time to time and transmitted by co-axial cable to individual residences and places of business at a monthly charge. The co-axial cable will be supported on the pole facilities of public utilities already operating in Rice Lake and vicinity if satisfactory arrangements therefor can be made. The service will be available to the public.

Opinion

[1] The jurisdiction of the Commission depends first upon whether the proposed operation is within the definition of "public utility" as it appears in § 196.01(1), Statutes, and second whether the Federal government has occupied the field to the exclusion of state regulation.

Section 196.01(1) reads in part as follows: "As used in Chapters 196 and 197, unless the context requires otherwise, 'public utility' means and embraces every . . . individual . . . that may own, operate, manage, or control . . . any plant or equipment or any part of a plant or equipment, within the state, for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, light, water, or power either directly or indirectly to or for the public. . . ."

The rule of statutory construction is given in § 370.01(1), Statutes, as follows: "All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning."

Whether the proposed project would be included within the language above-quoted as plant or equipment "for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, light, water, or power" in ordinary terminology is subject to considerable doubt. While the voice would be transmitted, it would not be by the means or methods ordinarily associated with telephone service. Moreover, the transmission of the voice is inextricably interwoven with the transmission of visual signals which are clearly not included in the ordinary concept of "conveyance of telephone messages."

[2] It is considered, however, that it is unnecessary to explore further the applicability of § 196.01(1), Statutes, because the Congress has apparently so completely occupied the field of television regulation as to preclude any parallel state jurisdiction.

"Television" is defined in Philadelphia Retail Liquor Dealers Asso. v. Pennsylvania Labor Control Board (1948) 360 Pa 269, 62 A2d 53, 4 ALR2d 1212, wherein it is said: "Television, as the experts describe it, is 'seeing at a distance by electrical means,' . . ."

In Allen B. Dumont Laboratories

v. Carroll (1950) 184 F2d 153 (see also [1949] 83 PUR NS 230, 86 F Supp 813), certiorari denied February 26, 1951, 71 S Ct 490, the question was whether the state of Pennsylvania could censor films used by plaintiff in projecting television programs in that state. The opinion points out that television programs broadcast by plaintiff are received by persons possessing sets not only in Pennsylvania but in adjoining states, and continues, p. 154: "As was found by the court below, 'There is no way by which the television broadcasts of the plaintiffs can possibly be confined so as to be received exclusively by receiving sets within Pennsylvania.' The record also demonstrates that some of the plaintiffs' programs are delivered by wire or radio relay from television stations located outside of Pennsylvania. There is no doubt but that television broadcasting is in interstate commerce. This is inherent in its very nature."

The above would also be true here, in that the programs received in Rice Lake would originate in St. Paul and Minneapolis. The opinion then continues and describes briefly the manner in which films are used for broadcast purposes. The court then said that the Communications Act of 1934 "covers the television as well as the radio field," citing §§ 2(a), 3(b), 303(g), and 301, which also appear in 47 USCA §§ 152(a), 153(b), 303 (g), and 301. At p. 155 of 184 F2d it is said:

"The Communications Act of 1934 applies to every phase of television and it is clear that Congress intended the regulatory scheme set out by it therein to be exclusive of state action. See § 301, 47 USCA § 301, which recites the purpose of the act as, inter alia, the maintenance of '. . . the control of the United States over all the channels of interstate and foreign radio transmission . . . .'

"If there were any doubt respecting the intention of Congress in this respect, it would be set at rest by legislative history. Senate Report No. 781, discussing Senate Bill S. 3285, which later was enacted as the Federal Communications Act stated, 'The purpose of this bill is to create a communications commission with regulatory power over all forms of electrical communication. . . .' The language employed is so all inclusive as to leave no doubt but that it was the intention of Congress to occupy the television broadcasting field in its entirety. . . ."

The court then rejected the contention of Pennsylvania that the field of censorship was left open by the Federal Communications Act and the state could exercise state police power in this field, although there was an express provision in the act to the effect that nothing therein should be construed to give the Federal Communications Commission the power of censorship over radio communications and that no regulation or condition shall be made by it which interferes with freedom of free speech by radio, and cited §§ 308(b), 307(d), 309(b) (2), 310(b), 303(m)(d), and 326 of said act, which also appear in 47 USCA §§ 308(b), 307(d), 309(b) (2), 310(b), 303(m)(d), and 326, now embodied in substance in 18 USCA § 1464, and concluded at p. 156:

"We think it is clear that Congress

has occupied fully the field of television regulation and that that field is no longer open to the states. Congress possessed the constitutional authority to effect this result. Hines v. Davidowitz (1941) 312 US 52, 74, 85 L ed 581, 61 S Ct 399."

The above decision, as to which certiorari was denied by the United States Supreme Court on February 26, 1951, 71 S Ct 490, appears to be in line with prior decisions relating to state jurisdiction over the regulation of radio transmission as to which the principles are quite similar.

The Commission is convinced that whatever jurisdiction it may have been given by the legislature over television has been nullified by the complete supervision exercised by Congress over transmission by television which necessarily transcends state lines and is, therefore, interstate in character.

Irrespective of the question as to the jurisdiction of the Public Service Commission over the proposed system, the applicant's attention is called to the provisions of § 86.16, Statutes, relating to the construction and operation of poles and wires on public highways and to the state electrical code which may be applicable to the proposed operation irrespective of the lack of broader regulatory jurisdiction by this Commission.

Conclusion of Law

The Commission concludes:

That it is without jurisdiction over the matter mentioned in the application herein and that an order should be entered dismissing said application.

ORDER

It is therefore *ordered:*

That the application herein be and the same is hereby dismissed.

MASSACHUSETTS SUPREME JUDICIAL COURT. SUFFOLK

Department of Public Utilities

v.

Eastern Massachusetts Street Railway Company

— Mass —, 99 NE2d 462
June 1, 1951

BILL *in equity by Department of Public Utilities to enforce order requiring transit company to resume operation between certain municipalities; final decree ordering compliance with Department order.*

DEPARTMENT v. EASTERN MASS. STREET R. CO.

Service, § 62 — Commission jurisdiction — Resumption of discontinued service — Temporary license to another carrier.

1. The Department has authority to order a transit company to resume discontinued operations, notwithstanding the fact that the Department had, upon notice of discontinuance, issued a temporary license to another carrier for the same route, p. 154.

Service, § 216 — Partial discontinuance — Transit company.

2. A transit company operating separately licensed and certified bus routes does not have an absolute right to discontinue a certain line without respect to the other certificates held, because a total abandonment or discontinuance would include all the systems operated by the company, if there ever properly can be such an act without due authorization, p. 155.

Service, § 220 — Discontinuance of bus lines — Statutory notice — Proper authorization.

3. The statute imposing a duty on a transit company, in the interest of public convenience, to give public notice of the discontinuance of any line, does not give the company authority to discontinue such lines merely by giving the required notice, p. 155.

APPEARANCES: D. H. Stuart, Assistant Attorney General (F. J. Roche, Assistant Attorney General, with him), for plaintiff; C. W. Mulcahy, Boston (P. H. R. Cahill, Boston, with him), for defendant.

Before Qua, C. J., and Lummus, Wilkins, Spalding and Counihan, JJ.

WILKINS, Justice: By this bill in equity the Department of Public Utilities seeks enforcement of an order of the Department requiring the defendant, a common carrier, to resume operation of motor vehicles for the carriage of passengers for hire between Taunton and Norton. GL (Ter Ed) Chap 25, § 5. The case is reserved and reported without decision upon the bill of complaint, the answer, and a statement of agreed facts. GL (Ter Ed) Chap 211, § 6; Chap 231, § 111.

On May 22, 1928, the adjacent municipalities of Taunton and Norton granted to the defendant licenses to operate motor vehicles for the carriage of passengers for hire over designated streets, and on July 5, 1928, the Department issued a certificate of necessity and convenience. See GL (Ter Ed) Chap 159A, §§ 1, 7; Springfield v. Springfield Street R. Co. (1951) 327 Mass —, 97 NE2d 196. The defendant ran busses under such licenses and certificate from about September 24, 1928, through September 18, 1949, "at which time it wholly discontinued such operation," after giving notice to the public of the proposed discontinuance under GL (Ter Ed) Chap 161, § 111.

For some time before September 18, 1949, the defendant had numerous conferences with the Department relative to such discontinuance, and the Department, acting under GL (Ter Ed) Chap 159A, § 5, issued a temporary license to another common carrier for the same route. The second carrier operated until November 17, 1949, when it became unable to continue because of failure to obtain

the municipal licenses required under GL (Ter Ed) Chap 159A, § 1, as appearing in St 1949, Chap 297, § 11. On November 10, 1949, the Department ordered the defendant to resume operation beginning November 18, 1949. The defendant's contention is that operation under this particular certificate had been entirely abandoned, and that the Department lacks authority to order resumption.

[1] The defendant was incorporated under Spec St 1918, Chap 188. Eastern Massachusetts Street R. Co. v. Trustees, 254 Mass 28, PUR1926B 162, 149 NE 628. The period of public control therein provided, after four extensions, has expired. St 1928, Chap 298; St 1933, Chap 108; St 1938, Chap 173; St 1943, Chap 98.[1] In the last statute accepted by the stockholders of the defendant there appears the provision: "After the expiration of the five year period of management and operation by trustees as herein provided the company shall have all the powers and privileges and be subject to all the liabilities and restrictions of a street railway company organized under general laws now or hereafter in force . . . ." St 1943, Chap 98, § 11. This provision is substantially similar to one applicable to all common carriers of passengers by motor vehicle to be found in GL (Ter Ed) Chap 159A, § 10, reading: "Any person engaged in the operation of motor vehicles under a license and certificate as provided in this chapter is hereby declared to be a common carrier. The Department shall have general supervision and regulation of, and jurisdiction and control over, such common carriers to the same extent as it has over railway companies, ..."

General Laws (Ter Ed) Chap 159, § 12, reads: "The Department shall, so far as may be necessary for the purpose of carrying out the provisions of law relative thereto, have general supervision and regulation of, and jurisdiction and control over, the following services . . . and all . . . companies furnishing or rendering any such service or services . . . (b) The carriage of passengers for hire upon motor vehicles as provided in chapter one hundred and fifty-nine A, in section seventy A of chapter one hundred and sixty and in section forty-four of chapter one hundred and sixty-one, but only to the extent therein provided." Section 70A of Chap 160 has no present bearing. Section 44 of Chap 161,[2] which has been held to apply to the defendant, Eastern Massachusetts Street R. Co. v. Trustees, *supra*, adds nothing to the statutes above quoted.

In GL (Ter Ed) Chap 161, § 2, appears the statement: "Street railway companies shall be subject to this chapter and chapter one hundred and fifty-nine." In GL (Ter Ed) Chap 159, § 16, it is provided: "If the Department is of opinion, after a hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of

[1] The stockholders did not accept the provisions of St 1948, Chap 558.

[2] "Any company, with the approval of the Department, may acquire, own and operate, for the transportation of passengers or freight, motor vehicles not running upon rails or tracks, but in such operation shall be subject to chapters one hundred and fifty-nine A and one hundred and fifty-nine B, so far as applicable." GL (Ter Ed) Chap 161, § 44, as amended by St 1934, Chap 264, § 4.

any common carrier are unjust, unreasonable, unsafe, improper or inadequate, the Department shall determine the just, reasonable, safe, adequate and proper regulations and practices thereafter to be in force and to be observed, and the equipment, appliances and service thereafter to be used, and shall fix and prescribe the same by order to be served upon every common carrier to be bound thereby. . . ."

[2] The defendant states in its brief, and it is a matter of common knowledge, that the defendant operates a "large number of separately licensed and certificated routes in various cities and towns in the eastern part of the commonwealth." It is argued by the defendant without citation of authority that a common carrier of passengers by motor vehicle has an absolute right to retire from the operation of the route specified in any given certificate without respect to any other certificates the carrier may hold. We find ourselves unable to subscribe to this argument. We are of opinion that it is the carrier's system as a whole which is to be considered. So regarded, the defendant has not effected a total abandonment or discontinuance, if there ever can properly be such an act without due authorization, but has attempted, solely upon its own authority, to withdraw from one small part of its territory. Compare Brownell v. Old Colony R. Co. (1895) 164 Mass 29, 41 NE 107, 29 LRA 169.

The defendant concedes that to the extent it is operating under any particular license and certificate it is subject to reasonable regulation by the Department under GL (Ter Ed) Chap 159, § 16, with respect to the service rendered on the route involved. See Burgess v. Brockton (1920) 235 Mass 95, 102, 126 NE 456. From what we have said, this seems to be too restricted a conception of the defendant's rights and obligations, which are to be regarded not piecemeal by the certificate but rather comprehensively according to the entire range of its activities viewed as a whole. We think that § 16 applies to this case. We do not understand that any contention is made that procedure under that section has not been observed.

We express no opinion as to the effect which might be given to GL (Ter Ed) Chap 159, § 12, if the rights of the parties were dependent solely upon that section. Nor do we rest our decision upon GL (Ter Ed) Chap 159A, § 7, upon which the Department seems solely to rely.

Great stress is placed by the defendant upon Selectmen of Amesbury v. Citizens' Electric Street R. Co. (1908) 199 Mass 394, 85 NE 419, 19 LRA NS 865. For present purposes it is enough to say that the court, while pointing out that the railway, as a public service company, was subject to legislative control, 199 Mass at p. 398, 85 NE at p. 419, did not discover any pertinent enactment. Such an enactment is not lacking in the case at bar. See Boston, Worcester & N. Y. Street R. Co. v. Commonwealth (1938) 301 Mass 283, 288, 17 NE2d 166.

[3] The defendant is not aided by its compliance with GL (Ter Ed) Chap 161, § 111.[3] While a duty is

[3] "All companies shall furnish the public with full information, by notice posted for seven consecutive days prior to the date when the same are to take effect in the cars on the

thereby imposed upon a street railway company, and so upon the defendant, in the interests of public convenience, to give public notice of the discontinuance of any line, this section is not a source of authority to a company to do the enumerated acts merely by giving the required notice.

The record discloses no reason for the action of the defendant. No question is presented of the operation of this part of the defendant's system at a loss. See Brownell v. Old Colony R. Co. *supra,* and cases collected in 10 ALR2d 1121.

A final decree is to be entered ordering the defendant to comply with the order of the Department, dated November 10, 1949, that the defendant resume the operation of motor vehicles for the carriage of passengers for hire between Taunton and Norton, under certificate numbered 381, issued on July 5, 1928.

So ordered.

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lines affected, of any intended change in the running of cars, or the discontinuance of any line, or any change in the general public service of said companies. . . ."

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Harrisburg Housing Authority

v.

Pennsylvania Power & Light Company

Complaint Docket No. 15189
June 25, 1951

PROCEEDING *by housing authority for order directing electric company to remove poles and wires from site of housing project and to pay cost of removal and relocation; granted.*

Construction and equipment, § 5 — Electric lines — Maintenance in street.

1. An electric company's right to maintain facilities within the street lines of a municipality is not abrogated by a requirement that the utility remove its poles and wires from certain streets to other streets which are satisfactory for their location and can be used without cost, p. 158.

Construction and equipment, § 5 — Electric facilities within street lines — Cost of relocation.

2. An electric company which is required by a municipal authority to remove its facilities from certain streets and relocate them on others is not entitled to recover for the cost of such relocation, since consent ordinances permitting the utility to use the streets for its equipment confer no franchise but merely authorized the use of streets subject to municipal regulation, p. 159.

Construction and equipment, § 5 — Expense of removal of poles and wires.

3. A housing authority which has been vested by a municipality with title to the ground occupied by streets is entitled to claim the whole of a street free from any utility easement, so that upon request an electric company has the duty to remove its poles and wires at its own expense, p. 159.

By the COMMISSION: By this proceeding, complainant, Harrisburg Housing Authority, seeks an order directing the Pennsylvania Power & Light Company to remove the poles and the wires strung thereon from the site of complainant's low-rent housing project and to relocate the same at such other points or places as shall not interfere with the safe and proper development and use of the housing project for such purposes, and directing that the Pennsylvania Power & Light Company shall pay the costs and expenses of such removal and relocation.

The pertinent facts in this proceeding are not in dispute and are as follows:

1. That complainant is a body corporate and politic created and existing under and by virtue of the terms and provisions of the act of May 28, 1937, P. L. 955, and amendments and supplements thereto. This act, known as the Housing Authorities Law, has been established to operate for the public purposes set forth in said act, which are (a) the clearance, replanning, and reconstruction of the areas in which slums exist; (b) the providing of safe and sanitary dwelling accommodations for persons of low income; (c) the accomplishment of a combination of the foregoing.

2. That complainant has entered into a contract with the Public Housing Administration for loans and annual contributions in connection with the development and administration of 550 low-rent dwelling units.

3. That the city of Harrisburg has made a finding of the need for the development and administration of the 550 low-rent dwelling units, within the limits of the city of Harrisburg, by the enactment of an ordinance and the execution of a co-operation agreement with complainant pursuant to said ordinance on May 11, 1950, which agreement provides, inter alia, for the elimination of an equivalent number of unsafe or unsanitary dwelling units in the city of Harrisburg, the vacation and closing of such public streets, alleys, roads, and ways within the proposed project boundaries as may be requested by complainant, the acceptance of the dedication of streets, roads, alleys, and sidewalks within the proposed project boundaries, and the furnishing of city-owned and operated services, utilities and facilities to the said project.

4. That complainant, pursuant to the power of eminent domain vested in it by the terms and provisions of the Housing Authority Law, *supra,* has, by resolution adopted on December 13, 1950, taken and acquired a certain tract of real property situate in the first ward of the city of Harrisburg; that complainant is about to commence the development and construction of 550 low-rent dwellings on said tract of land.

5. That respondent maintains and operates poles with lines strung there-

on which serve as a tie circuit between Cedar street electric station and the Harrisburg substation of respondent, which lines consist of 7 wires, accommodating one circuit and carries 12,000 volts; that a portion of said lines including a number of poles are located in the right of way of Hanover street and South 17th street in the city of Harrisburg, within the boundaries of the tract of real property which complainant has taken and acquired by eminent domain as aforesaid.

6. That the council of the city of Harrisburg, pursuant to the co-operation agreement dated May 11, 1950, between the city of Harrisburg and complainant, has adopted an Ordinance (No. 103 Session 1950–1951) vacating, inter alia, Hanover street between Fifteenth street and Nace alley.

7. That the maintenance of the poles with the wires strung thereon by respondent within the boundaries of the site of the low-rent housing project would endanger the contractors and their employees who shall be engaged in the actual work of construction of the proposed project, and, if the proposed construction is carried out, certain of the buildings will be so close to the lines of respondent as to violate the standards of safety of insurance underwriters and therefore will constitute a hazard to the users and occupants of the units in the project and the project site.

8. That the site described aforesaid is the only site available within the limits of Harrisburg which is suitable for the purposes of complainant's project and has been approved for such purposes by both the council and the planning commission for the city of Harrisburg and the public housing administration.

9. That there are available to respondent other streets and rights of way therein within the city of Harrisburg for the construction and maintenance of said poles and wires and particularly said poles and lines can be constructed and maintained on the right of way of Sycamore street between Thirteenth and Seventeenth streets; that representatives of respondent have acknowledged to complainant that said route is a satisfactory one; and further that respondent can obtain the consent and approval of the proper authorities and representatives of the city of Harrisburg for the construction and maintenance of said poles and lines on the streets described above and will not be obliged or required to purchase, lease, or in any manner pay for any easement or right to use the right of way in the said streets or the portion of the project site described above.

Respondent consents to the issuance by the Commission of an order providing for the removal and location, as prayed for by complainant, but objects to any order which would direct it to bear the costs and expenses of such removal and relocation, and, on the contrary, prays the Commission to issue an order whereby the costs and expenses of such removal and relocation should be borne by complainant.

Both respondent and complainant, in the absence of issues of fact, ask that the Commission decide the legal question involved without hearing.

[1] Respondent relies on the case of Postal Teleg.-Cable Co. v. Public Utility Commission (1944) 154 Pa Super Ct 340, 53 PUR NS 76, 35 A2d

535, as authority for respondent's position that the costs and expenses of the removal of its facilities from certain streets in the city of Harrisburg should be borne by the complainant. In the Postal Case, *supra*, the superior court held that where the utility's right to maintain its facilities within highway limits has been abrogated, it amounts to a taking of the utility's property and the utility is entitled to be paid the cost of relocating its facilities. In light of the agreed-upon facts in this case we are unable to agree with respondent that the decision in the Postal Case, *supra*, is applicable to the immediate situation. Thus, in paragraph 9 of the agreed-upon facts it is stated that there are available to respondent other streets and rights of way therein within the city of Harrisburg; that said streets are satisfactory to respondent; and further that respondent can obtain the consent and approval of the proper authorities and representatives of the city of Harrisburg for the construction and maintenance of said poles and lines and will not be obliged or required to purchase, lease, or in any manner pay for any easement or right to use the right of way in the different streets. This is not the situation existing in the Postal Case, *supra*. In that case the utility's right to maintain its facilities within highway limits was abrogated and it was forced to move its facilities to private property. In the immediate situation, the utility's right to maintain its facilities within street lines will not be abrogated, it will merely be required to remove its poles and wires from certain city streets to other city streets. This is not a taking of respondent's property.

[2, 3] The controlling principle for denying recovery by a utility for the cost of relocation of facilities within street lines has been stated in Delaware River Joint Commission Case (1941) 342 Pa 119, 122, 19 A2d 278, as follows:

"Appellant's structures and appliances involved were within street lines and have been relocated and reconstructed within street lines. The consent ordinances conferred no franchise, interest, or estate in any particular portion of the streets; on the contrary the grant was expressly subjected to municipal regulation as will appear later. To require appellant to remove its conduits from one location in the street to another, or, in other words, to require it to surrender, in the course of the general improvement of the highway system, the space in which a conduit was constructed in one part of the street and permit its reconstruction in another, was therefore not a taking of property; after the reconstruction, the appellant enjoyed the same street franchise under its consent ordinances as it had enjoyed before."

In Scranton Gas & Water Co. v. Scranton (1906) 214 Pa 586, 591, 64 Atl 84, the court said:

"It is the reasonable discretion of the municipal authorities that determines the extent of the change in the streets required to meet public necessities; and to that change, whatever it may be, short of an abrogation or annulment of the company's right to maintain its system of pipes in the public streets, the company must conform at its own cost and expense. The former results from the inherent right of the municipality to the exercise

of the police power, and the latter from the subordinated rights of the gas company in the public streets under its original grant of privilege, to those of the public."

See also Bell Teleph. Co. v. Public Utility Commission (1940) 139 Pa Super Ct 529, 12 A2d 479.

The power of the city of Harrisburg to institute and consummate vacation proceedings is established in the Third Class Cities Law of 1931 (53 P S 12198–2918 et seq). The fact that the immediate vacation proceedings were brought pursuant to a co-operation agreement entered into with respondent is a circumstance which can be deemed of no significance inasmuch as the streets were vacated by action of the city of Harrisburg itself. The act of February 27, 1849, § 3, P. L. 90 (36 P S § 2131) declares that "Whenever any highway, street, court, or alley shall be vacated, or hath been vacated, by authority of law, the adjoining owner or owners shall be authorized to reclaim the same, to the centre thereof," of course, freed from encumbrances such as here exist; for the right of the free use and enjoyment of property is the right of property itself. It seems perfectly clear, therefore, that the vacation of the streets in complainant's tract was within the lawful powers of the city of Harrisburg, and that it vested the title to the ground occupied by the streets in complainant as the abutting owner on both sides, and entitled to claim the whole of the streets, with the right to have them free from any easement, and that it then became the duty of respondent company to remove its poles and wires at its own expense; therefore,

It is *ordered:*

1. That the instant complaint be and is hereby sustained.

2. That the respondent, the Pennsylvania Power & Light Company, be and is hereby ordered and directed to remove its poles and the wires strung thereon from the site of the low-rent housing project, as set forth in the instant complaint, and to relocate the same at such other points or places as shall not interfere with the safe and proper development and use of the site of the low-rent housing project for such purpose.

3. That the respondent, the Pennsylvania Power & Light Company, be and is hereby ordered and directed to pay the costs and expenses of such removal and relocation.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Alabama Power Plans $100,000,000 Program

ALABAMA POWER COMPANY plans to spend $100,483,760 in the years 1951 through 1953 to raise its generating capacity to 1,384,000 kilowatts, 1½ times the pre-World War II level.

Of the three-year total, approximately $55,700,000 will go for new generating facilities. These include the sixth and seventh units, each of 100,000 kilowatts, at the Gorgas steam plant west of Birmingham; the third unit, of 40,000 kilowatts, at the Chickasaw steam plant in southwestern Alabama; the fourth unit at Martin dam, near Tuskegee, of 55,000 kilowatts; and the first of two 125,000-kilowatt units at the Barry steam plant near Mount Vernon. Also, $600,000 will be spent for the acquisition of a site and initial construction of a steam electric station with an installed capacity of 100,000 kilowatts, at a location not yet determined.

An additional $12,200,000 will be spent for transmission lines and substations; $23,600,000 for enlarging the company's distribution system; $3,100,000 for rural lines, and $5,900,000 for miscellaneous construction.

Ford, Bacon & Davis Advances R. P. Westerhoff

R. P. WESTERHOFF has been elected vice president and director in charge of the engineering department of Ford, Bacon & Davis, engineers-constructors, of New York, Chicago, Philadelphia, and Los Angeles, according to an announcement made by E. S. Coldwell, president.

Mr. Westerhoff, with the firm for 20 years, has had charge of the engineering planning, design, and construction of large scale plants in many industries, including natural gas and steam power.

Ebasco Reports 900,000 Kw New Capacity Completed in 1950

DURING 1950 approximately 900,000 kilowatts of new electric generating capacity, engineered and constructed by Ebasco Services Incorporated were completed and placed in operation, according to recent reports. In the first half of 1951 an additional 850,000 kilowatts were completed and placed in operation for clients in the United States.

Ebasco has in process of design and construction approximately 3,750,000 kilowatts of hydro- and steam-electric generating capacity scheduled to be placed in service during the next three years. Of this, 225,000 kilowatts are for clients in foreign countries. Several natural gas pipe line projects have been completed, and others are in progress.

During the early part of 1951 design and construction was undertaken on a 650,000 kilowatt power plant for Electric Energy, Inc., a company organized and financed by a group of investor-owned utilities. This is the largest power plant of outdoor design in the world. It will supply about half the electricity for a new Federal atomic energy plant, near Paducah, Kentucky.

Institute Issues Booklet on Open Steel Flooring

A 16-PAGE Idea-Book — "Versatile — Open Steel Flooring" has been published by the Open Steel Flooring Institute, Inc. The book is illustrated with installation photographs showing the many and varied possibilities for using steel grating. It explains types and features of open steel flooring and specifications for insuring quality open steel flooring and its proper installation.

Copies are available free to anyone interested from the institute's offices—First National Bank building, Pittsburgh, Pennsylvania.

Device Made for Better Controls

A NEW instrument that provides sensitive, instantaneous and accurate control of flow, temperature, pressure, liquid level, and other industrial process variables has been developed by Minneapolis-Honeywell Regulator Company.

The device, the Tel-O-Set controller, is described by the company as the latest component in a series of new devices designed to improve process control. The other components of the group are the differential converter, Tel-O-Set indicator and Tel-O-Set recorder.

The controller was developed for use with the other three components. It is further de-

(*Continued on Page* 34)

scribed as a low-cost, easily installed, compact unit which provides maximum trouble-free operation. In addition to its extreme sensitivity and rapid response to process change, the controller operates on a pneumatic balance principle which eliminates friction and lost motion.

The new model is made in two types, one with fixed proportional band, the other with adjustable proportional band. The units are constructed of a number of coded, interchangeable sections separated by diaphragms. Except for manual adjustments of reset on the band unit, the Tel-O-Set controllers operate wholly in response to pneumatic signals.

Central Vt. Public Service Opens New Gas Turbine Plant

ELECTRICITY began flowing from the Central Vermont Public Service Corporation's new gas turbine power plant at Rutland recently when its first unit entered final testing stages, Albert A. Cree, president, announced.

The new power plant which will house three units, each capable of generating 6,000 kilowatts of electricity an hour, is expected to be completed within a year. Its total cost will be approximately $3,600,000.

Installation of the second unit began recently and the third unit is scheduled for installation during the first half of 1952.

Mr. Cree pointed out that in the past five years the Central Vermont Public Service Corporation has built more than 1,300 miles of rural lines, adding some 4,700 farms and rural homes to the company's system which now serves virtually every productive farm in its territory. Total sales of electricity by Central Vermont have increased from 177,000,000 kilowatt-hours in 1945 to 271,000,000 last year.

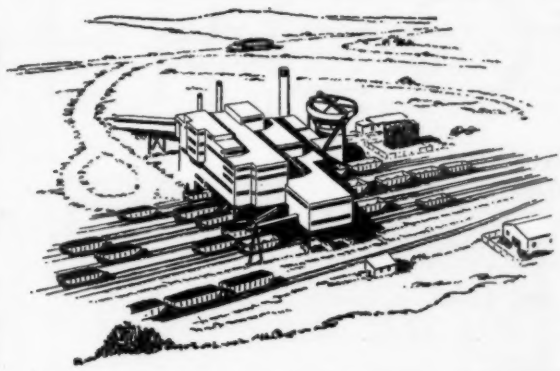
Insulated Line Clearing Tools Offered by Miller-Robinson

AIR powered line clearing tools and Limb-Loppers insulated against electrical shock are being offered by the Miller-Robinson Company especially for utility and power companies, telephone, communications and rural electrification organizations, and for right-of-way maintenance.

According to the manufacturer, the special insulated models meet the needs of utility and power companies whose line clearing crews run the risk of death or injury from electrical shock after contact with bare power lines carrying high voltages as the Miller-Robinson insulated loppers provide utmost safety against this hazard in addition to effecting savings from 20 to 50 per cent in line clearing time and labor costs.

Several major utility companies, in coöperation with Miller-Robinson engineers, are said to have tested the new insulated Limb-Lop-

(*Continued on Page* 36)



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RECISION ENGINEERED PREPARATION — In odern processing plants, Southern's coals are thorughly washed and rinsed; accurately sized; carefully blended; laboratory tested at the mine daily. They are scientifically engineered to meet rigid industrial burning specifications.

COMBUSTION ENGINEERING SERVICE — Southern's combustion engineers will assist you with selection and application—then follow through with actual burning tests to prove the recommendation.

ABILITY TO SERVE — Unmatched selection of coals from mines in Illinois, Indiana, Western Kentucky and Ohio—located on nine of America's major railroads—I. C., L. & N., Santa Fe, N. Y. C., M. & O., Southern, B. & O., C. B. & Q., Frisco.

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Boon-Strachan Coal Company, Ltd., Montreal, Canadian Representative

pers, and that months of in-the-field tests have proved highly satisfactory, both from the standpoint of time and labor saved as well as the effectiveness of the added safety factor due to insulation.

Complete information on the new insulated models and the complete line of pneumatic hand pruners and Limb-Loppers can be obtained by writing Miller-Robinson Company, 7007 Avalon boulevard, Los Angeles 3, California.

Florida Power Breaks Ground For $6,000,000 Plant

FLORIDA POWER CORPORATION broke ground recently for its projected $6,000,000 Suwannee river power plant near Madison, Florida.

W. C. Gilman, president, said completion of the new station in 1952 will mark the beginning of "an era of industrialization for North Florida." When in operation it will generate 13,000 volts of electricity, which will be stepped up through sub-stations, to 110,000 volts.

Joins Ebasco Services Staff

THADDEUS L. SHARKEY has joined the staff of the rate department of Ebasco Services Incorporated as a rate consultant. Formerly, he was assistant rate engineer of Potomac Electric Power Company, Washington, D. C.

He began his utility career with the Washington Railway and Electric Company in 1931, the then parent company of Potomac Electric. Later he transferred to the power company where he served as senior engineer in the rate department for several years.

NEMA Elec. Housewares Section Approves 1952 Campaign

PLANS for the continuation of the Electric Housewares Gift Campaign for 1952 have been approved by the Electric Housewares Section, National Electrical Manufacturers Association, it was announced recently.

The industry's long-range merchandising-promotion program, aimed at capturing a larger share of the year 'round gift market, will continue to use as its theme: "Give Electric Housewares—First Choice for Every Gift Occasion." Merchandising of the campaign will continue under the direction of Ralf Shockey & Associates, Inc., New York city.

Multimillion Dollar Plant Opened by PG&E

THE giant, multimillion dollar Contra Costa steam plant—one of the nation's largest electric generating plants—joined Pacific Gas and Electric Company's far-flung power network at formal dedication ceremonies recently.

During the dedication, President James B. Black accepted the new plant for PG&E from

(*Continued on Page* 38)

Stephen D. Bechtel, president of Bechtel Corporation, the builder, and bespoke for it long and efficient service to the users of electric energy throughout Northern and Central California.

Three 100,000-kilowatt generating units are in service today at Contra Costa and the investment in the plant to date is $50,000,000. Two additional units will be installed by early 1953, boosting the plant's capacity to 500,000 kilowatts and the construction cost to $80,000,000.

When completed, Contra Costa and its twin at Moss Landing, Monterey county, California, will be the largest steam-electric generating stations west of the Mississippi. Either plant could supply the total power demands of a city larger than San Francisco. Mr. Black indicated in his remarks that the company may further enlarge both plants in the future, possibly to a million kilowatts each.

The company's investment in new facilities since V-J Day is almost $800,000,000 to date and will exceed one billion dollars by 1953.

Continental Pipe Line Plans Two Lines Costing $7,900,000

CONTINENTAL PIPE LINE COMPANY will begin work soon on two pipe line projects in the Southwest costing a total of $7,900,000.

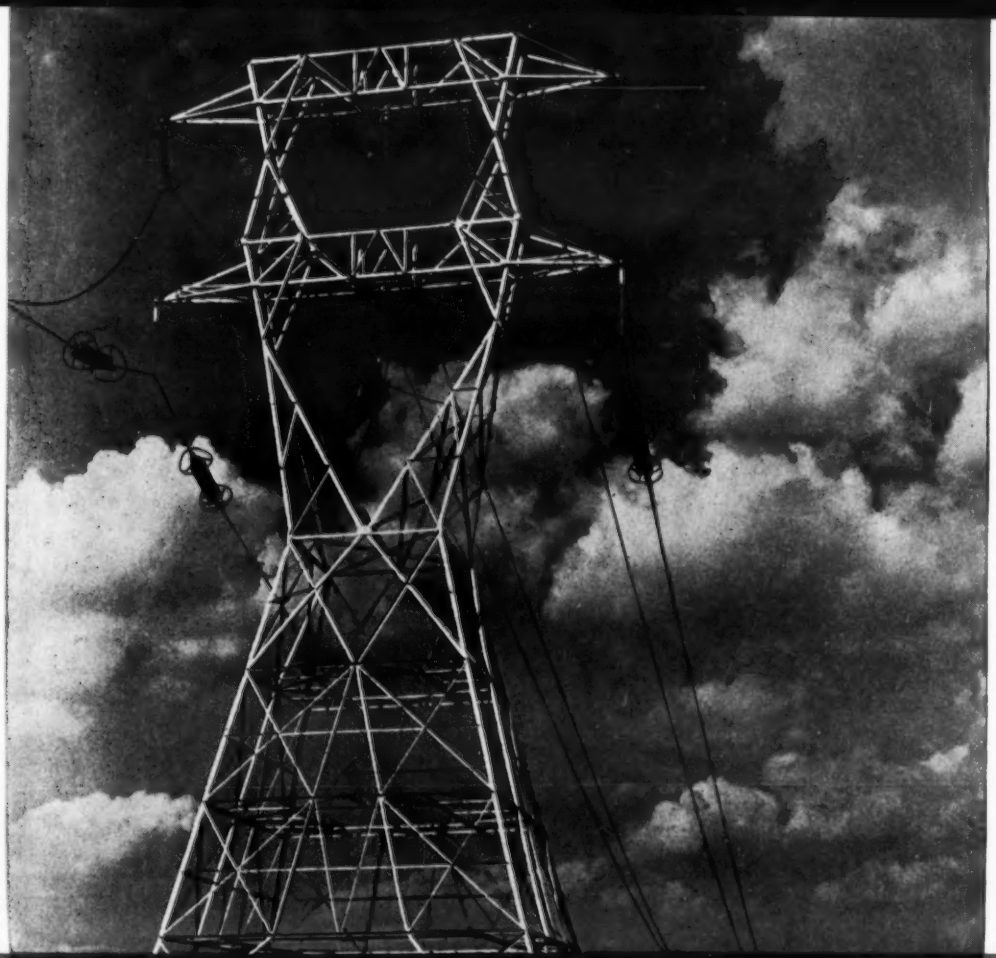
The first project, costing $5,900,000, is a 12-inch line extending 225 miles from Wichita Falls, Texas, to Continental's refinery at Ponca City, Oklahoma. The line will have an initial daily capacity of 40,000 barrels.

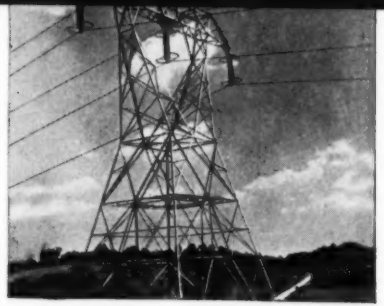
The other project is an eight-inch, 100-mile line from the Rincon Field in Starr county, in the southern tip of Texas, by way of McAllen to Port Isabel, near the mouth of the Rio Grande. It will cost about $2,000,000 and have a capacity of 17,000 barrels daily. Rice Institute is a 50% partner with Continental in this project.

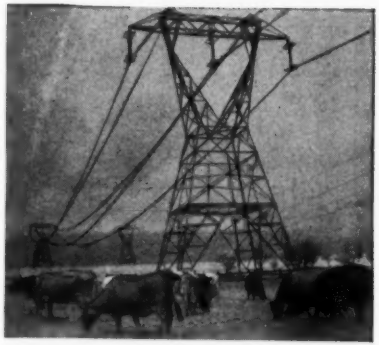
W. C. Snyder Elected President Blaw-Knox Company

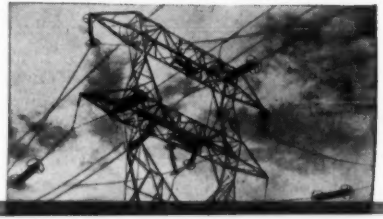
W. CORDES SNYDER, JR., of Sewickley, Pennsylvania, has been elected president and chief executive officer of Blaw-Knox Company, it was announced recently by the company. Mr. Snyder previously was a vice president of the company in charge of its Lewis Foundry & Machine Division, and more recently has been vice president of the Koppers Company and manager of its metallurgical Department. Mr. Snyder is expected to assume his duties with the Blaw-Knox Company on or about November 1, 1951.

William P. Witherow, formerly president and chairman of Blaw-Knox Company, will continue as chairman of the board. Chester H. Lehman will continue in his present capacities of vice chairman of the board and executive vice president.



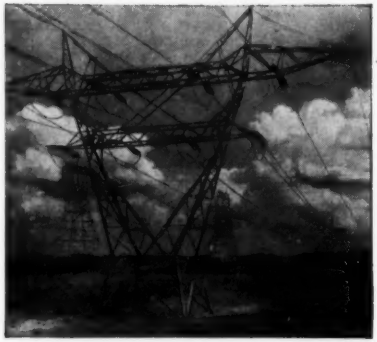






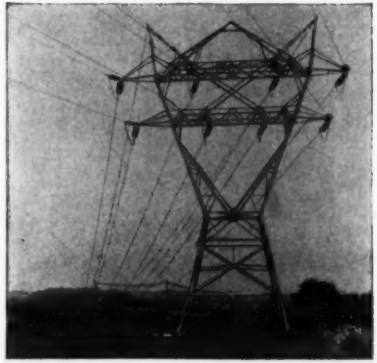
DESIGNS UNLIMITED

DESIGNS UNLIMITED



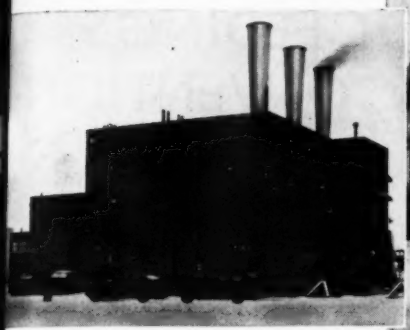
If your engineers have their own ideas on tower design, well and good. We will follow them to the letter and adhere closely to specifications. Your engineers realize, as we do, that despite general similarity no two towers are alike. Each tower must be designed for its particular location and purpose.

Let us apply our four decades of experience in building towers for any and all conditions of terrain and load, to your power transmission problems.



BLAW-KNOX DIVISION OF BLAW-KNOX COMPANY
2110 Farmers Bank Building, Pittsburgh 22, Pa.

BLAW-KNOX
TRANSMISSION TOWERS



Power house of Ford Motor Company's Buffalo Stamping Plant, Lackawanna, N. Y., equipped with Exide-Manchex Batteries for switchgear operation and emergency lighting.

Bank of 120-cell DME-9A Exide-Manchex Batteries mounted on Exide 3-step #37333 rack.

Exide-Manchex PROVIDES BATTERY POWER AT FORD'S BUFFALO STAMPING PLANT

Efficiency of operation and equipment is characteristic of all departments of the great Ford Motor Company organization. Thus it is significant that the battery selected for the power house of their Buffalo Stamping Plant is an Exide-Manchex. This is the third Exide-Manchex at this plant, each a 120-cell DME-9A battery.

Throughout the country, in public and private power plants of all sizes, the Exide-Manchex is daily proving its dependability, long life, and economy. In Exide-Manchex Batteries you get:

POSITIVE OPERATION: Dependable performance at ample voltage with no switching failures.

INSTANTANEOUS POWER: High rates for switchgear operation with adequate reserve power for dependable performance of all other control circuits and also emergency lighting.

LOW OPERATING COST: Extremely low internal resistance.

LOW MAINTENANCE COST: Water required about twice a year. No change of chemical solution needed during life of battery.

LOW DEPRECIATION: Sturdy, long-life construction.

GREATER CAPACITY in a given amount of space avoids overcrowding of equipment. These are the features that help to make Exide-Manchex *your best battery buy* for all control and substation services.

• • •

LEAD CALCIUM BATTERIES

Exide first produced Lead Calcium Batteries in 1935. Since that time we have progressively followed an extensive program of laboratory research and development along with a study of Exide Lead Calcium Batteries in actual service.

Much has been learned during those 16 years. Though the time is too short to specifically predict length of battery life, definite conclusions have been reached regarding proper application. We will be glad to inform you where these cells can satisfactorily serve.

THE ELECTRIC STORAGE BATTERY CO.
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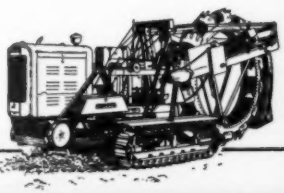
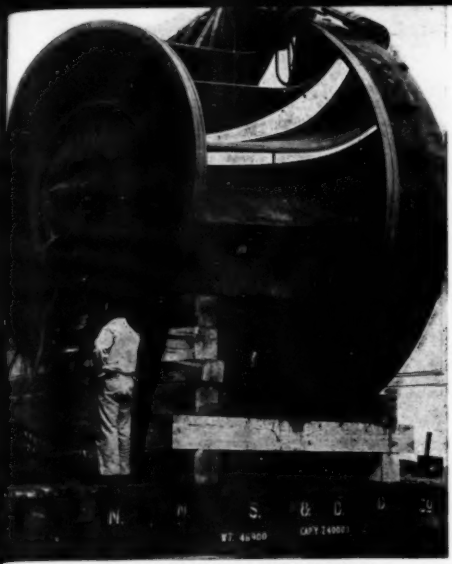


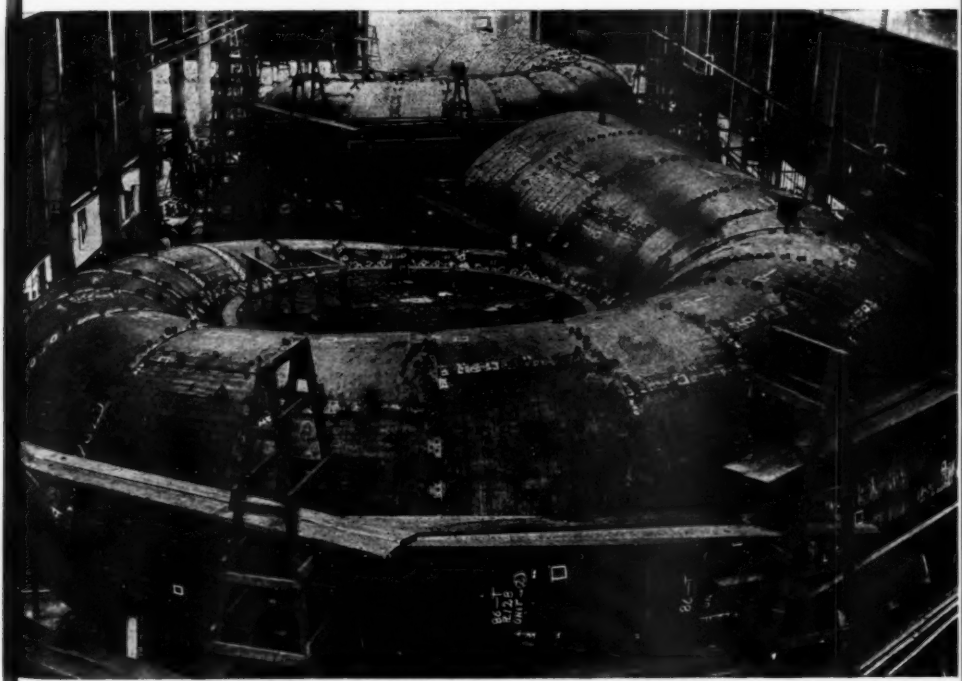
CLEVELAND TRENCHERS



RUNNER FOR BUGGS' ISLAND DEVELOPMENT

OVER EIGHT MILLION HORSEPOWER

The Newport News Shipbuilding and Dry Dock Company has received orders for the building of hydraulic turbines aggregating output of 8,150,000 horsepower.



ASSEMBLY OF SPIRAL CASINGS FOR C. J. STRIKE DEVELOPMENT

NEWPORT NEWS

SHIPBUILDING AND DRY DOCK COMPANY

Newport News, Virginia

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PROFESSIONAL DIRECTORY (*continued*)

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PROFESSIONAL DIRECTORY *(continued)*

PROFESSIONAL DIRECTORY *(concluded)*

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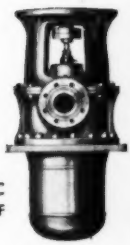
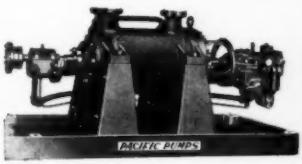


PACIFIC TYPE WBF



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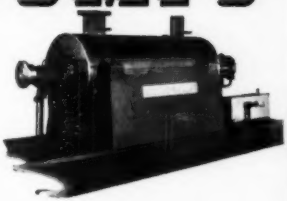

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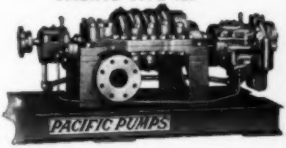

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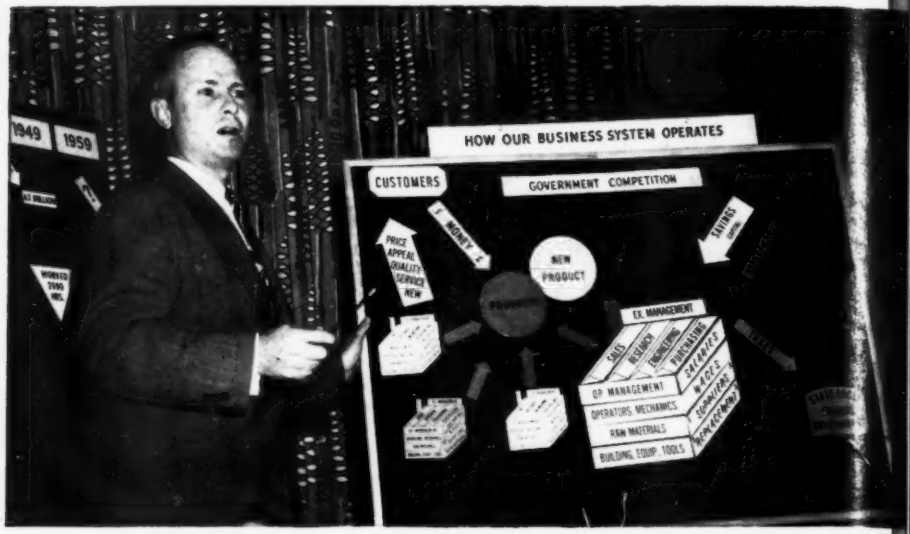

"WHO DECIDES, in the long run, what products will be made, how many, and what price they'll be sold for?" asks discussion leader J. C. Gibson. All but one in group agreed that it is the customer who decides.

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Thanks to an idea called "Hobso," thousands of Americans are learning "How Our Business System Operates"

RED HOT TOPIC at this "HOBSO" session was comparison of individual rights under socialism and free enterprise. Draftsman M. L. MacKenzie points out limitations of right to own private property under English government—with emphasis.

Most Americans know that this country h the world's highest standard of living. B they may not know how and why free ente prise makes this possible. "HOBSO"—sho for "How Our Business System Operates"— is designed to answer these questions.

Based on earlier development and use b the DuPont Company, the "HOBSO" cour is presented to employees at General Electri from coast to coast.

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